

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.24378 of 2014 (O&M)

Date of Decision:08.02.2019

Jarnail Singh

.....Petitioner

Versus

Bhakra Beas Management Board and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. K.S.Dadwal, Advocate,
for the petitioner.

Mr. Dhruv Sharma, Advocate for
Mr. Kuldeep Tiwari, Advocate,
for the respondents-BBMB.

ARUN MONGA, J. (ORAL)

The present petition has been filed for issuance of a writ in the nature of certiorari to quash the order dated 25.07.2013 (Annexure P-4) passed by respondent No.4-The Senior Executive Engineer, Bhakra Beas Management Board (in short "BBMB"). Whereby, an amount of Rs.2,85,578/- has been directed to be withheld from the retiral benefits of the petitioner, on account of a proposed recovery towards rent/damage charges of the official quarter/residence allotted by the BBMB to the petitioner, while he was in service.

2. The petitioner retired from BBMB on 31.10.2018 as Sub-Fire Officer. While in service, petitioner was allotted a quarter No.27-C at Nangal Township. However, proceedings were initiated against the petitioner under the Public Premises (Eviction

of Unauthorized Occupant) Act, 1971 seeking his eviction on the ground that he had sub-let his official accommodation to a private party. Pursuant thereto, vide order dated 25.03.2003 (Annexure P-1) eviction was ordered and damages were also directed to be recovered from the petitioner @ Rs.800/- per month.

3. The order dated 25.03.2003 was set aside in appeal by the Court of Additional District Judge, Rupnagar and the matter was directed to be remanded to the Estate Officer, BBMB for deciding it afresh.

4. Learned counsel for the petitioner contends that payment of 3rd installment of the revised pay, as per the recommendations of the 5th Punjab Pay Commission, vide order dated 31.12.2010 (Annexure P-7), has not been disbursed to the petitioner till date, owing to the impugned order dated 25.07.2013 (Annexure P-4). Pursuant to a direction vide order dated 23.02.2018 of this Court, the Estate Officer, BBMB has now passed an order dated 22.05.2018 (Annexure A-1). Whereby, the petitioner has been directed to make the payment of penal rent amounting to Rs.2,85,578/-.

5. Vide another order dated 28.08.2017, this Court had directed the respondents to produce the relevant rule or provision, under which, petitioner's arrears of revised pay can be withheld, with reference to the penal rent issue. Neither any such rule/regulation has been placed on record before this Court, pursuant to the said order, nor has it been shown at the time of

hearing.

6. Per contra, learned counsel for the respondents states that, pursuant to the order dated 23.02.2018, this Court observed that in case the Estate Officer, BBMB passes a final order with regard to the payment of penal rent by the petitioner, the respondent-BBMB would then be fully justified to not release the arrears of pay towards the 3rd installment, as per the recommendations of the 5th Punjab Pay Commission. Therefore, the payment has been rightly withheld. He contends that until the petitioner takes recourse to challenge the order dated 23.02.2018, he cannot be granted the benefit of 3rd installment, as per the recommendations of the 5th Punjab Pay Commission.

7. Having gone through the pleadings and the Annexures appended thereto and after hearing the rival contentions of the learned counsel of both sides, I am of the view that the recovery qua penal rent is altogether a separate proceeding as envisaged under the Public Premises (Eviction of Unauthorized Occupant) Act, 1971. Being a self-contained statute, the parties are to seek their remedies in accordance with the Act, *ibid*.

8. Accordingly, without commenting on the veracity of the order dated 22.05.2018 (Annexure A-1) passed by the Estate Officer, BBMB, I hold that the petitioner is entitled to seek benefit of the 5th Punjab Pay Commission as per order dated 31.12.2010 (Annexure P-7). In the event, any recovery is to be effected from petitioner towards the penal rent, the same can be done in accordance with law from his pensionary benefits in view of Rule 2.2 (b) of the Punjab Civil Service Rules, which is extracted

hereinbelow:-

b) *“The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if, in a departmental or judicial proceeding, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement:”*

8. In view of the above Rule, I hold that until the recovery proceedings attain finality, there is no ground to withhold the benefit of arrears of revised pay scales, entitlement of which, is not in dispute.

9. In view of my observations as noted above, the order dated 25.07.2013 (Annexure P-4) is set aside, with liberty to the petitioner, to seek recourse to an appropriate remedy qua the order dated 22.05.2018 (Annexure A-1), passed by the Estate Officer, BBMB during the pendency of the present writ petition.

10. Respondent No.3-Additional Superintending Engineer, Bhakra Dam Division, BBMB is directed to release the payment towards the 3rd installment, as per the recommendations of the 5th Punjab Pay Commission, as envisaged in order dated 31.12.2010 (Annexure P-7), within a period of 3 months from the date of receipt of a copy of this order along with interest @ 6% per annum.

11. Petition stands allowed in the aforesaid terms.

(ARUN MONGA)
JUDGE

February 08, 2019.

vandana/sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No