IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25260 of 2016
DATE OF DECISION:26.09.2019

Jagga Mal

... Petitioner

Versus

Punjab State Supply and Marketing Federation Ltd. and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Tahaf Bains, Advocate
for the petitioner.

Ms. Puneet Kaur Sekhon, Advocate
for the respondents.

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HARSIMRAN SINGH SETHI, J. (ORAL)

CM No.14243 of 2019

The present application has been filed for placing on record Annexure P-14.

In view of the averments made therein, application is allowed.

Annexure P-14 is taken on record.

CWP No.25260 of 2016

In the present writ petition, the grievance which is being raised by the petitioner is that though the petitioner superannuated from service on 30.09.2005 but the benefits for which he was entitled on his retirement, have not been released without any valid justification. The prayer of the petitioner is for issuance of directions to the respondents to release the retiral benefits, in respect of service which the petitioner rendered with respondent-Federation.

Counsel for the petitioner argues that during the service career of the petitioner, the petitioner was issued a chargesheet on 21.10.1998 and in pursuance of the said chargesheet, the Managing Director i.e. the Punishing Authority passed an order on 30.01.2003 imposing the punishment of reducing four stages in the time scale of pay with cumulative effect with a further condition that in case the loss incurred by the respondents is not recovered from the miller, the same will be recovered from the charged-sheeted officials i.e. petitioner herein. On appeal, the said order was upheld by the appellate authority vide order dated 15.09.2004 which order was further challenged by the petitioner and the Additional Registrar (Admn.) Cooperative Societies, Chandigarh remanded the case back to the Markfed for passing an appropriate order afresh.

By the said time, the petitioner retired from service on attaining the age of superannuation on 30.09.2005. The said proceedings which were pending, ultimately came to an end when the Additional Registrar (Credit) Cooperative Societies, Punjab quashed the recovery against the petitioner vide order dated

22.09.2016

Apart from the said chargesheet dated 21.10.1998, there was an FIR No.30 dated 04.02.1999 registered against the petitioner and some other employees, was also pending against the petitioner at the time of his retirement on 30.09.2005. After the retirement, the petitioner alongwith the other employees was acquitted on 06.08.2011 and even the appeal filed against the said acquittal was dismissed by the Appellate Court on 26.08.2014. Ultimately, the revision petition filed before this Court was also dismissed on 28.01.2013.

After the retirement of the petitioner, the respondent-Markfed also initiated the proceedings against the petitioner under Sections 55 and 56 of the Punjab Cooperative Societies Act, 1961 for recovery of loss of amount, which according to respondents, petitioner had caused to the respondent. The arbitrator dismissed the claim of the respondent-Federation of recovery from the petitioner on 29.12.2009 and the appeal filed by the Markfed before the Additional Registrar, Cooperative Societies (Admn.), Punjab was accepted on 20.05.2011. The acceptance of the appeal by the Additional Registrar Cooperative Societies, Punjab was challenged by the petitioner as well as other employee by filing revision petiton before the Financial Commissioner. Financial Commissioner set aside the order passed by the Additional Registrar Cooperative Societies on 12.05.2016 and held that the petitioner is not liable for payment of any amount as being asked by the respondents in the arbitration proceedings initiated against the petitioner under Sections 55 and 56 of the Punjab

Cooperative Societies Act, 1961.

Counsel for the petitioner argues that at present, there are no proceedings pending against the petitioner, which would entitle the respondents to withhold the pensionary benefits of the petitioner as all the proceedings whichever initiated against the petitioner by the respondents have come to an end and in none of the proceedings, the petitioner had held liable for the loss caused. Therefore, the respondents are under obligation to release the benefits of the petitioner, for which he became entitled after his retirement, forthwith.

Counsel for the respondents very fairly states that as of now, there are no proceedings pending against the petitioner and, therefore, the respondent-Markfed will pass appropriate orders for the release of the pensionary benefits of the petitioner within a period of one month from the date of receipt of a certified copy of this order.

Counsel for the petitioner argues that the benefits for which the petitioner became entitled in the year 2005 have been withheld for a period of 14 years and in none of the proceedings, which were pending against the petitioner at the time of his retirement, the petitioner has been held guilty rather, he has been found innocent by all the authorities and, therefore, the delay in releasing the pensionary benefits of the petitioner is attributable to the respondents-Markfed only and, therefore, the petitioner is entitled for interest on the payments, which are to be released to the petitioner now and the respondents are under obligation to consider that aspect also while releasing the pensionary benefits of the petitioner as well as the claim of the petitioner for regularization of the suspension period.

Counsel for the petitioner states that the petitioner remained under suspension from 15.04.1999 to 07.07.2000 and the petitioner has not been paid any salary for the said period and despite the fact that the respondents are under obligation to decide the said period of suspension by passing appropriate order, same has not been passed by the respondents so far, without any valid justification.

Counsel for the respondents very fairly states that keeping in view the settled principles of law as well as the facts and circumstances of the present case, while releasing the pensionary benefits of the petitioner, an order with regard to the claim of the petitioner for the grant of interest will also be considered and an appropriate order will be passed within a time frame of one month as undertaken by the counsel.

In view of the above, the present writ petition is disposed of with a direction to the Marked to pass an appropriate order with regard to the claim of the petitioner for the release of the pensionary benefits within a period of one month from the date of receipt of a certified copy of this order and while releasing the same as undertaken by the counsel for the respondents, the claim of the petitioner for the grant of interest on the delayed payments as well as the claim of the petitioner with regard to regularization of the suspension period will also be considered and an appropriate order in that regard shall also be passed. Whatever the amount the petitioner is found entitled as per the order to be passed by the respondent, shall be released to the petitioner within a period of one month thereafter.

The writ petition stands disposed of.

September 26, 2019
jt **(HARSIMRAN SINGH SETHI)**
JUDGE

Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No