

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

L.P.A. No.2297 of 2016 in
Civil Writ Petition No.14401 of 2013
Reserved on : August 17, 2019
Date of decision: September 19, 2019

Ashok Kumar Watts

...Appellant

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Puneesh Gagneja, Advocate for the appellant.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

Ms. Jasvir Kaur, Advocate for respondent No.4.

HARINDER SINGH SIDHU, J.

This Letters Patent Appeal has been filed impugning the judgment dated 23.07.2016 of the learned Single Judge whereby the Writ Petition of the appellant has only been partly allowed.

2 The petitioner had filed the writ petition seeking directions to the respondents to release his service benefits such as pension, commuted pension, gratuity, leave encashment, provident fund etc. He had also prayed for quashing of the order dated 31.05.2013, whereby, he was voluntarily retired.

3. The petitioner was working as Leading Fireman with Municipal Council, Abohar. His wife was undergoing treatment at Medanta Hospital, Gurgaon. For her treatment the petitioner had incurred considerable expenditure and had raised loans from his friends and relatives which were

outstanding. His wife meanwhile died. As the petitioner was unable to repay the loans raised, vide letter dated 01.03.2013, he sought voluntary retirement from service. Vide the same letter he requested that his service benefits such as gratuity, provident fund etc. be released to him on the day of his retirement and only then, he be relieved from duty. This letter was followed by reminders dated 03.05.2013 and 21.05.2013.

4. The Executive Officer, Municipal Council Abohar wrote back to the petitioner on 21.05.2013 informing him that the Municipal Council did not have sufficient funds and that payment of retiral benefits could not be made immediately. If he still wanted to get retirement from the service of Municipal Council, some amount could be paid to him on the date of retirement. The remaining amount would be paid at the earliest, as and when funds are available with the Municipal Council. He was informed that if he consented, after completion to the notice period, he would be retired.

5. In response to the aforesaid letter, the petitioner wrote back on 27.05.2013 that he be granted voluntary retirement after taking necessary action on completion of notice period. The Executive Officer wrote to the petitioner on 30.05.2013 that on the basis of his application, he would be granted voluntary retirement from service on 31.05.2013. On availability of funds with the Municipal Council, he would be paid the dues. The petitioner wrote back the same day stating that he had never given consent for release of his dues later on. He had always stated that he may be relieved from duty after payment of dues on the date of retirement. He requested that keeping in view his difficulty and domestic condition, all the retirement dues be paid and after that he may be relieved from duty.

Based on the aforesaid communications between the petitioner and the respondent Municipal Council, the learned Single Judge concluded that despite being informed by the Municipal Council that he would not be paid his entire retiral dues on the date of his retirement, the petitioner did not withdraw his request for voluntary retirement. He was retired from service on 31.05.2013. His retirement could not be called illegal.

6. As far as the payment of retiral dues to the petitioner are concerned, it was pointed out that all the dues have been released to him. Regarding the delay in payment of the dues, the learned Single Judge held that insufficiency of funds was no ground for delaying the dues. The Municipal Council was directed to pay interest @ 9% p.a. on the delayed payment of pensionary benefits beyond two months from the date of retirement.

7. The learned Single Judge rightly held that, as at no stage was the request for voluntary retirement withdrawn by the petitioner, there was no illegality in the action of the Municipal Council in accepting the plea.

8. Accordingly, there is no merit in the appeal and the same is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

September 19, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No