

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

207

CWP-2217-2016 (O&M)
Date of Decision: 20.01.2020

Nirmala Rani

.... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. R.N.Sharma, Advocate
for the petitioner.

Ms. Chhavi Sharma, Advocate
for the respondents.

NIRMALJIT KAUR, J.

The writ petition has filed by the petitioner, who is the wife of the employee late Sh. Nirmal Kumar Rai, Junior Engineer (Retd.), seeking the quashing of the various orders, vide which the petitioner's husband was punished with stoppage of annual increments without cumulative effect and a recovery of Rs.1,30,522/- was imposed and Rs.33,11,874/- has been shown against him as miscellaneous advance and 5% + 5%+ 3% cut in pension for one year has been made on the basis of show cause notices.

The husband of the petitioner retired on 30.06.2013. After his retirement, the husband of the petitioner requested the respondents to release his pension and pensionary benefits admissible under the Rules. When the same was not released, he was forced to file CWP No.20400 of 2014 on the ground that some show cause notices were issued and although, he had submitted his reply but was not aware of the outcome of the reply, which was disposed of vide order dated 28.08.2015 (Annexure P-6) with a

direction to the respondents to settle the pension and pensionary benefits. At the same time, the husband of petitioner was given liberty to question the orders annexed by the respondents with their written statement, with the following directions:

“Reading of the above table indicates that petitioner was subjected to number of disciplinary action and they were ended in dropping and imposing various penalties. The latest order is of 25.02.2015 on which day the inquiry was dropped and in a different matter penalty was imposed to the extent of 3% cut from his pension for a period of one year.

The learned counsel for the petitioner vehemently contended that no charge-sheet has been filed against him and decisions what are all taken to impose certain penalties are only by issuing a show-cause notice and obtaining reply from him and the orders have been passed. Therefore, he seeks liberty to question those orders. Accordingly, he is permitted to do so.”

However, within less than one month of the passing of the above order and before the petitioner could even challenge the orders of penalties, the husband of the petitioner died on 15.09.2015.

The present writ petition was, therefore, filed by the petitioner, who is wife of the deceased employee Late Nirmal Kumar Rai, challenging the impugned orders (Annexure P-9 Colly), which are allegedly having been passed without holding any inquiry. Learned counsel for the petitioner while praying for setting aside the same, submitted that the liability was fixed on the petitioner by these impugned orders without initiating any disciplinary proceedings and as such without conducting any inquiry. Recovery has been shown against the petitioner's husband showing huge outstanding amount without ascertaining any loss.

Reply has been filed. The facts are not disputed. It is not disputed that the orders were passed without initiating any disciplinary proceedings. Obviously, the very orders imposing liability and recovery of heavy amount was illegal, arbitrary, against the rules and unjust as also having been imposed without following the provision of natural justice. Even if the husband of the petitioner had been alive and had challenged these orders, the same could not have been sustained as they were passed without following due procedure and against the provision of natural justice.

In view of the above, the present writ petition is allowed. The orders dated 18.09.2001, 03.07.2008, 23.07.2008, 19.03.2009, 29.03.2012, 02.09.2009, 29.12.2009, 10.03.2015, 01.01.2015, 13.02.2015, 04.02.2015, 25.02.2015 and 23.02.2015 (Annexure P-9 colly) are quashed with a direction to the respondents to release the remaining pensionary benefits of leave encashment, gratuity and full pension as preferably within two months from today along with interest @ 6% from the date the same were liable to be released that is from the date of retirement of the husband of the petitioner till the date of the payment. In case the said payment is not made within two months along with interest as above, the respondents shall be liable to pay the amount with 12% interest after the expiry of two months.

It is evident from the reply itself and from the facts on record as also is evident from above that the respondents under no circumstances could have imposed the punishment in the absence of any inquiry/disciplinary proceedings. The situation was even more clear after the death of the deceased. Hence, the natural consequence of such an incident should have followed, that is, the remaining retiral benefits should

have been released to the petitioner-the wife of the deceased employee forthwith. However, she was forced to come to this Court on account of 'could not care' attitude as well as the 'insensitive attitude of the respondents'. Accordingly, the present petition is allowed with costs of Rs.50,000/-. The order be brought to the notice of Chairman-cum-Managing Director, who shall hold an inquiry into the lapse on the part of the respondents and fix the responsibility of the officer who has imposed the punishment without following the due process of law and thereafter not releasing the pension to the wife of the deceased knowingly well that the pensionary benefits were required to be released. Thereafter, the costs shall be recovered from the said officer after fixing the responsibility.

20.01.2020
sandeep/anju

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No