

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CWP-6954-2020

Date of Decision: 12.02.2021

Manmohan Singh

....Petitioner.

V/S

State of Punjab and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr.P.S.Khurana, Advocate
for the petitioner

Ms.Ambika Bedi, AAG Punjab

SUDHIR MITTAL, J . (Oral):

The petitioner was appointed as Section Officer in the office of respondent No.2 i.e.Chief Engineer (Drainage), Punjab, in the year 1978 and was promoted to the rank of Assistant Engineer in the year 1995. He superannuated from the said post on 30.09.2010. However, his complete retiral dues have not been paid to him. Gratuity and commutation of pension have been withheld and only provisional pension is being paid to him. Thus, he has challenged this action through this writ petition.

Learned counsel for the petitioner submits that the impugned order dated 15.11.2019 (Annexure P-2) is illegal as the same is cryptic. No reasons whatsoever have been given in support thereof. It is a mere reproduction of order dated 24.01.2019 (Annexure P-1) passed by the Executive Engineer, Workshop Division, Water Resources Department, Punjab, Chandigarh. The Executive Engineer had rejected the claim of the petitioner for release of gratuity, commutation of pension and full pension on the ground that T and P

not handed over the charge of his post. Even the said reasons are fanciful as the Workshop Department had issued a 'No Due Certificate' dated 30.09.2011, which is on record as Annexure P-14. The other 'No Due Certificates' are annexed as Annexures P-4 to P-13. Moreover, according to Rule 6.16 (aa) of the Punjab Civil Services Rules (Vol.II), Part-1, Chapter VI, (for short, 'the Rules') gratuity and other retiral benefits can only be withheld in a case where Rule 2.2(b) (Vol.II), Part-1, Chapter-II of the Rules has been complied with. Rule 2.2 (b) (supra) provides that pensionary benefits can be withheld in case an employee is found guilty of causing financial loss to the department after the conduct of departmental inquiry or such a finding is returned by a competent Court.

Admittedly, no proceedings are pending in a Court of law and even show cause notice has not been issued to the petitioner leave alone initiation of departmental proceedings. Thus, the action of the respondents cannot be sustained in law.

Learned State counsel submits that in paragraph 1 of the preliminary submissions of the written statement, it has been averred that the petitioner had T and P charge of the Head Office of Irrigation Department, Punjab and that he had not cleared the said charge till the date of his retirement. Thus, the respondents were entitled to withhold the pensionary benefits.

It may be noted that the learned State counsel has not said anything regarding initiation or conduct of departmental proceedings. Thus, the writ petition can be decided on the basis of the relevant rule position.

The relevant rules have been referred to in the earlier part of the judgment. Pensionary benefits can only be withheld if Rule 2.2(b) (supra) has been complied with i.e. departmental proceedings have been conducted which established the guilt of the delinquent official.

It is not disputed that no such departmental proceedings have been conducted till date. The petitioner retired more than 10 years ago. Thus, withholding of part of the retiral benefits is patently illegal.

For the aforementioned reasons, the writ petition is allowed. The respondents are directed to release the gratuity and commutation of pension withheld within four weeks from the date of receipt of the certified copy of this order. Full pension be also paid within the said period. In case of failure to comply with this order, the petitioner shall be entitled to payment of interest on the arrears at the rate of 9% per annum from the date of retirement till the date of payment.

February 12, 2021

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(SUDHIR MITTAL)
JUDGE

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