

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

118

CWP-7417-2022

Date of Decision :08.04.2022

Rakesh Kumar

..Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurminder Singh Phull, Advocate and
Mr. Gurshabad Singh Sandhu, Advocate for the petitioner.

Mr. Narender Singh Behgal, AAG, Haryana.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed with a prayer that the respondents may kindly be directed to release the gratuity of the petitioner, which has been withheld by the respondents though, the petitioner retired from service on 30.04.2018.

Learned counsel for the petitioner submits that an FIR No.07 dated 11.01.2017 under Sections 409 & 201 of the IPC at Police Station Jatusana, District Rewari was registered against the petitioner, wherein, it has been alleged that the petitioner has embezzled a sum of Rs, 8,69,900/-. Learned counsel for the petitioner submits that the petitioner is disputing the allegations alleged against him in the FIR and the same are yet to be proved as no charges have been framed so far.

On the last date of hearing, following order was passed:-

“Learned counsel for the petitioner argues that the pensionary benefits of the petitioner are being withheld by the respondents on the ground that the

respondents are enquiring into an allegation of embezzlement to the tune of Rs.8,69,900/-. Learned counsel for the petitioner submits that merely that the enquiry is being conducted is not a good ground to retain the pensionary benefits but the petitioner is ready that from the gratuity, the respondents can withhold the amount of Rs.8,69,900/- till the preliminary enquiry into the alleged allegations of embezzlement is being conducted so that at least the balance amount for which the petitioner is entitled for, is released to him.

Notice of motion.

On asking of the Court, Mr. Narender Singh Behgal, learned Assistant Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondents.

Learned counsel for the respondents seeks a short adjournment so as to enable him to seek instructions in this regard as to whether there is any other impediment to the release of the balance of gratuity to the petitioner or not, except the said allegation.

Adjourned to 08.04.2022.”

Learned State counsel submits that there is no other impediment in the release of the gratuity of the petitioner except the said FIR but, as the allegations are of embezzlement, the gratuity of the petitioner has been withheld. Learned State counsel further submits that keeping in view the undertaking given by the petitioner that an amount of Rs.8,69,900/- be retained by the department and rest of the amount of gratuity be released to him till the finalization of the proceedings, the department has no objection to the same in case, the petitioner gives an affidavit to the said effect.

Keeping in view the above, it is directed that in case the petitioner tenders an affidavit with the respondents that an amount of Rs.8,69,900/- be retained by the department during the pendency of the FIR subject to its outcome and the rest of the amount of gratuity be released to him, an appropriate order on the basis of the said affidavit be passed by the respondents keeping in view the statement made by the learned counsel for

the respondents as recorded hereinbefore for the release of the required payment of gratuity.

Present writ petition stands disposed of in above terms.

April 08, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

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