

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(203)

CWP-13290-2021

Date of Decision : August 02, 2022

Pale Ram

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Raman B. Garg, Advocate and
Ms. Gitanjali Chhabra, Advocate, for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

None for respondents No. 4 and 6.

Mr. Sahil Gupta, Advocate, for respondent No.5.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present writ petition, the challenge is to the order dated 07.07.2021 (Annexure P-6) by which, the petitioner has been ordered a recovery of an amount of Rs.2,80,144/-.

In the petition, it has been averred that the petitioner was appointed on 16.10.1986 as a Land Officer in Municipal Council, Jind. Thereafter, in the year 1992, the petitioner was promoted as Junior Engineer and in the year 2001, the petitioner was promoted as Municipal Engineer. While working on the said post, the petitioner attained the age of superannuation and retired on 30.11.2013. After a period of eight years of

the retirement, the petitioner received a letter from the respondents that during the service, the petitioner had undertaken certain construction works, which were not found upto the mark and a recovery of sum of an amount of Rs.2,80,144/- is to be done from him and the same should be deposited. The said letter is being challenged in the present petition on the ground that no recovery can be asked from a retired employee and that too after a period of 8 years of the retirement. It has been further averred in the petition that before ascertaining the amount of recovery, no proper procedure as envisaged under the rules has been followed, hence, the demand of Rs.2,80,144/- is arbitrary and illegal and the same should be set aside.

After notice of motion, the respondents have filed the reply. As per the respondents, while in service, the petitioner undertook certain development works within the area under his jurisdiction which works were found to be sub standard in a preliminary enquiry wherein, the role of the petitioner was also ascertained and found that the petitioner is liable to make good the loss suffered by the department to the tune of Rs.2,80,144/- which amount the petitioner never deposited upto the date of his retirement and non-deposit of the amount due from the petitioner has led to the issuance of the impugned order dated 07.07.2021 (Annexure P-6).

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a conceded position that the petitioner retired from service on attaining the age of superannuation on 30.11.2013. Nothing has been brought to the notice of this Court that any disciplinary proceedings were conducted against the petitioner so as to hold him liable for any loss caused to the Municipal Council, which loss is being recovered by the issuance of

the impugned order dated 07.07.2021 (Annexure P-6).

It is a settled principle of law that in case an employee has misconducted while discharging the duties, if in service, is to be proceeded in accordance with the rules governing the said aspect and then only, an order of punishment can be passed. In case, an employee has already retired then there is a special provision under which a retired employee can be proceeded against subject to the limitations stated therein.

In the present case, no document has been placed on record to show that any disciplinary proceeding was conducted before the petitioner was held liable for the payment of Rs.2,80,144/-. In the absence of any valid process undertaken by the respondents before passing the impugned order unilaterally without observing rules of natural justice, order dated 07.07.2021 (Annexure P-6) by which, the petitioner has been directed to deposit an amount of Rs.2,80,144/-, it cannot be sustained in the eyes of law.

Keeping in view the above, as the impugned order dated 07.07.2021 (Annexure P-6) has been passed without following due process as envisaged under the law, the same is quashed.

The present writ petition is allowed in above terms.

August 02, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes