

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

(236)

CWP-19749-2018

Date of Decision : September 15, 2022

Bijender Singh Malik

..Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd and another ..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashwani Talwar, Advocate, for the petitioner.

Ms. Tanya Kaushik, Advocate, for
Mr. C.S. Bakhshi, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance of the petitioner is that though the petitioner has already retired on attaining the age of superannuation on 30.06.2015 but certain pensionary benefits of the petitioner have been withheld which are not being released and that too without any valid justification. Further prayer of the petitioner is that the petitioner was entitled for fixation of salary in pay band-3, which benefit was not extended to him and the petitioner is entitled for the grant of the same.

After notice of motion, the respondents have filed the reply wherein, it has been mentioned that on the date of the retirement, the charge

sheet dated 22.11.2011 was pending against the petitioner due to which certain pensionary benefits of the petitioner were withheld and most of the pensionary benefits including the provisional pension was already released to the petitioner immediately after his retirement. As per the respondents, the release of the withheld pensionary benefits will be decided after the conclusion of the proceedings.

With regard to the claim of the petitioner qua his entitlement for fixation of his salary in pay band-3, the respondents submitted that the petitioner did not pass the required examination and is relying upon the grant of exemption, which cannot be claimed as a matter of right and after the year 2012, a notification was issued that the employees who have already crossed the age of 50 years, are not to be granted exemption under any circumstances.

Learned counsel for the petitioner submits that during the pendency of the petition, the charge sheet dated 22.11.2011 has already been taken to the logical end and an order has been passed on 22.07.2022 imposing punishment, hence, now there is no impediment in the release of the pensionary benefits and the respondents be directed to release the pensionary benefits of the petitioner in accordance with law.

Learned counsel for the respondents submits that as the charge sheet has been decided on 22.07.2022, within a period of one month from today, appropriate order with regard to the release of the withheld benefits of the petitioner will be passed and whatever the petitioner is found entitled, for, will be released to the petitioner within a period of one month.

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

With regard to the claim of the petitioner of the grant of pay band-3, the same is being claimed on the basis of grant of exemption. It is a conceded position that as per the rules which exist as of now, the petitioner is required to pass the departmental examination which departmental examination concededly the petitioner has not passed, hence, the petitioner is not eligible for the grant of the said pay scale.

The claim of the petitioner for the release of the said pay band-3 by granting him relaxation can also not be accepted as the relaxation cannot be claimed as a matter of right.

It is only for the Department to consider the claim for the grant of exemption if the Department deem it fit. In the present case, nothing has come on record that the relaxation being claimed was ever extended to the petitioner.

Further, the respondents in their reply has mentioned that the grant of exemption for passing the departmental examination was not granted to any civil engineer whether from civil or electrical cadre, after crossing the age of 50 years.

In the present case, the petitioner has already crossed the age of 50 years, hence, no ground is made out for the grant of the said benefit to the petitioner.

Keeping in view the above, the present petition is disposed of with a direction to the respondents to consider the claim of the petitioner for the release of the withheld pensionary benefits within a period of one month as being undertaken by the learned counsel for the respondents in case there is no impediment in the grant of the said relief.

It is clarified that no observation is being made by this Court with regard to the validity or observations of the order dated 22.07.2022, the same will be adjudicated upon in case the petitioner avail any appropriate remedy before any appropriate forum, available to him qua the said order.

September 15, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No