[102] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCP-4343-2019 (O&M)
Date of Decision :21.12.2022

Ravinder Kaur …Petitioner

Versus

Faisal Imam and others ….Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Mr. Vishal Gautam, Advocate for the petitioner.
Mr. H.S. Jugait, Advocate for respondent No.1.
Mr. Ajit Singh Natt, AAG, Punjab for respondent Nos.2 &3.

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B.S. Walia, J. (Oral)

[1] Prayer in the petition is for initiating proceedings against the respondents for intentional and willful defiance of order, Annexure P/1 dated 09.07.2019 in CWP No.21138 of 2017 in case titled as Ravinder Kaur vs. State of Punjab and others.

[2] A perusal of order, Annexure P/1 reveals that challenge in the writ petition was to order dated 20.03.2017 whereby benefit of 100% family pension was declined to the petitioner on the ground that the share of the family pension which the son from the first wife was getting, was non-transferable in favour of the petitioner, i.e. second wife of the deceased Government employee keeping in view Note (I) below Rule 6.17 (4) of the Punjab Civil Services Rules, Volume-II. The petitioner was claiming that she be given 100% family pension after the son born out of the first marriage of the deceased employee become ineligible to get family pension on attaining the age of 25 years.

[3] Taking into account that the question of law which was being

contested by the respondents already stood settled by the decision in LPA No.1434 of 2014 decided on 01.09.2014 and that too on an appeal preferred by the State of Punjab and that despite suffering the said judgment, the respondents had still passed an order contrary to the said judgment in the year 2017, the writ petition was allowed, impugned orders dated 20.03.2017 and 12.04.2017 were set aside and the petitioner was held entitled to the 50% share of pension which Iqbal Singh was receiving with effect from the date he became ineligible to receive the same on attaining the age of 25 years i.e. 06.12.2016. Amount which the petitioner would become entitled was directed to be paid to the petitioner with interest @ 9% per annum from the date it became due till the same was released. Liberty was also granted to the petitioner to make a representation qua her grievance that 50% share of the family pension which she was receiving was also reduced by the respondents without any valid justification. The respondents were directed to decide the said claim within a period of two months from the date said claim was raised.

[4] Admittedly, the respondents failed to release the amount due and payable to the petitioner in terms of order, Annexure P/1 dated 09.07.2019, despite said order having attained finality and despite status report having been called for by this Court vide order dated 06.01.2020. Thereafter, the matter came to be listed for hearing on 16.08.2022 wherein while noticing that it was indeed distressing to note that despite the order violation of which was claimed being of July 09, 2019, had not been complied with despite lapse of more than 03 years and 01 month, an affidavit was directed to be filed by the respondents disclosing the steps taken to comply with order dated 09.07.2019 on receipt of the same as also the reasons for non-compliance. However, on the next date of

hearing, learned State counsel requested for more time to file compliance report-cum-reply despite opposition by the learned counsel for the petitioner. However, in the interest of justice, the case was adjourned to 05.09.2022. On 05.09.2022, no affidavit was filed by the respondents and the case was adjourned to 17.11.2022. On 17.11.2022 reply dated 05.09.2022 was filed and copy thereofsupplied to learned counsel for the petitioner who requested for time to go over the same whereupon the case was adjourned to 29.11.2022. On 29.11.2022, learned AAG, Punjab on telephonic instructions from the Deputy Director, Department of Animal Husbandry, Hoshiarpur, Punjab (respondent No.2) stated that payment as per entitlement of the petitioner qua the claim as noticed in order dated 16.08.2022 would be released to the petitioner within 02 weeks whereupon the case was adjourned to 13.12.2022 for reporting compliance, failing which the competent authority was directed to remain present in Court on the date fixed. On 13.12.2022, learned AAG, Punjab stated that out of payment of Rs.15,96,204/- i.e. 50% share of family pension payable to the petitioner on account of wrong stoppage of pension in the year 2016, a sum of Rs.5,29,769/- had been paid to the petitioner on 01.06.2022 and the balance amount would be paid shortly. In the interest of justice, the case was adjourned to 19.12.2022 with a direction to file compliance report-cum-reply before the date fixed with copy to learned counsel for the petitioner besides disclosing the reasons as to why the payment illegally withheld in the year 2016 was not released in time, as also the names of the person(s)/authority responsible for the delay in approving and releasing the payment resulting in accrual of liability of 12% interest on the outstanding amount, failing which respondent No.2 was directed to remain present in Court on 19.12.2022.

[5] When the case was taken up on 19.12.2022, learned AAG, Punjab as well as learned counsel for respondent No.1 stated that payment of the amount due to the petitioner had been sanctioned by the Finance Department and would be credited in the account of the petitioner by the evening whereupon learned counsel for the petitioner requested for listing of the matter for a short date whereupon the matter was adjourned to 21.12.2022.

[6] Today, learned AAG, Punjab as well as learned counsel for respondent No.1 state that balance payment of the amount due to the petitioner i.e. Rs.10,66,435/- out of the total payment of Rs.15,96,204/- i.e. the share of family pension illegally withheld in the year 2016, has not been deposited in the account of the petitioner till date.

[7] Learned counsel for the petitioner states that neither the payment has been released to the petitioner till date by the respondent nor have the names of the officers responsible for the delay in approving payment for releasing the same resulting in accrual of liability of interest (i.e. 9%) on the outstanding amount been given.

[8] Learned counsel for the respondents state that outstanding payment of Rs.10,66,435/- would be credited in the account of the petitioner within one week.

[9] Learned counsel for the petitioner contends that in the circumstances, it is apparent that there was intentional and willful defiance of order, Annexure P/1 dated 09.07.2019, therefore, apart from convicting and punishing the respondents for intentional and willful defiance of order, Annexure P/1 in not releasing the 50% share of the family pension (illegally withheld in the year 2016), which was due to the petitioner-widow on account of family pension, exemplary costs are liable

to be awarded to the petitioner in terms of the decision of this Court in COCP No.128 of 2020 in case titled as Ranjita @ Renu vs. Kakumann Siva Prasad and ors. decided on 02.09.2022. Relevant extract of the same is reproduced as under:-

> *"[4] Learned Counsel relies upon the decision in Ramdut and Ors. versus Vikas Gupta and Ors., Law Find Doc ID # 847564, 'Batra Hospital and Medical Research Centre of Ch. Aishi Batra Employees' Union versus Management of Batra Hospital and Medical Research Centre of Ch. Aishi Ram Batra Public Charitable Trust and others', Law Finder Doc ID # 65503 and Advani Oerlikon Ltd. vs. Union of India, Law Finder DOC ID # 217034.*
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> *Relevant extract of the decision in Ramdut's case (Supra) is reproduced as under :-*
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> *"3. Learned counsel for the petitioners submit that the claim of the petitioners was to be considered within a period of four months from the date of receipt of copy of the representation but the order has been passed after a delay of approximately one year. Due to not taking any action by the respondents, the petitioners had to file the present contempt petitions for non-compliance of the order which has burdened them with unnecessary expenses to be incurred by the petitioners.*
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> *5. No doubt, the delay has occurred in compliance of the order passed by this Court. In case any delay was there, even on the part of the petitioners because of nonappearance, the respondents could have filed application for extension of time but no such action has been taken. Moreover, the contempt proceedings are between Court and the Authorities to whom the directions were issued. The order has been passed after a long delay and petitioners are at liberty*

to challenge the same. However, keeping in view the delay which has been caused by the respondents in passing of the order, a sum of Rs.25,000/- as costs is imposed upon the respondents for non-compliance of the order within the stipulated period. The amount of cost shall be paid to the petitioners by way of draft, which shall be shared equally in both the petitions, within a period of one month from the date of receipt of copy of the order. However, the respondents are also directed to be careful in future."

Likewise relevant extract of the decision in Batra Hospital and Medical Research Centre's case (Supra) is reproduced as under :-

"5. In light of the aforesaid discussion and the fact that the order has been complied with the explanation offered by the respondents is accepted. However, I am of the view that ends of justice would served if the respondents be put to terms for the delay in compliance of the order passed by this Court. Accordingly, the respondents are directed to pay a sum of Rs.12,000/- as costs. No further orders are called for in the present petition. The same stands disposed of. Notice is discharged."

Relevant extract of the decision in Advani Oerlikon Ltd.'s case (Supra) is reproduced as under :-

"4. On the merits of the case, Mr. Maninder Singh has explained that the representation was received only in September, 2003 and immediately a fresh hearing was granted on 21.10.2003. The detailed Speaking Order is dated 23.10.2003 and is Annexure A and is available on the record. The respondent has been remiss in the manner in which these legal proceedings have been handled. Even though the order dated 07.03.2003 disposing of C.W. No.5069/1997 was passed ex parte, it was the bounden duty of the respondents to follow up their case. The cavalier

> *attitude must be censured. Since the representation has been disposed of by order dated 23.10.2003, this petition is disposed of as satisfied, with costs of Rs.10,000/- payable by the respondent to the petitioner."*

[10] Learned AAG, Punjab on instructions from respondent No.2, who is present in Court, states that claim of the petitioner for releasing of financial benefits as per entitlement in terms of order, Annexure P/1 dated 09.07.2019 was sent by the Deputy Director, Animal Husbandry Punjab, Hoshiarpur (respondent No.2) on 06.12.2022 to the office of the Director, Animal Husbandry, Punjab, where the same was forwarded by the office of the Director, Animal Husbandry Punjab to the Department of Finance, Government of Punjab and a sum of Rs.9,11,318 was found due and payable to the petitioner on account of the illegally withheld pension till the year 2016 out of which a sum of Rs.5,29,769/- already stood paid to the petitioner on 01.06.2022 but balance amount has not been paid though sanction for release of the same was issued on 19.12.2022.

[11] Learned counsel for respondent No.1 on the other hand while referring to order, Annexure R-1/2 dated 20.03.2020 issued by respondent No. 1 i.e. the Accountant General (A&E), Punjab Chandigarh to the District Treasury Officer, Hoshiarpur contends that direction had been issued for release of full pension to the petitioner in terms of order, Annexure P/1 dated 09.07.2019 in CWP No.21138 of 2017 and pursuant thereto, Rs.5,29,769/- was paid to the petitioner on 01.06.2022 and that delay in non release of payment to the petitioner is not attributable to respondent No. 1 but to the Department of Animal Husbandry in not submitting speaking order of the competent authority along with concurrence of the Finance Department.

[12] A perusal of the position noted above reveals that the department wasindifferent to the plight of the petitioner-widow.

[13] Learned counsel for the respondents have tried to throw the blame on each other by contending that the delay in releasing payment is not attributable to the respective respondents.

[14] Be as it may, perusal of the reply filed by respondent No.2mentions an unconditional apology for any infraction as also forany inaction on the part ofrespondent No.2 but that the actual amount due towards the petitioner was to be approved by the office of the Accountant General, Punjab and after approval, entire payment would be released without any delay.

[15] I have considered the submissions of learned counsel and although I am of the view that it is a fit case to take action under the Contempt of Courts Act, 1971, yet taking a lenient view of the matter, I accept the unconditionally apology but deem it appropriate to award costs to the petitioner for the delay in compliance with the order of the writ Court as well as harassment faced by the petitioner which are quantified at Rs.25,000/-.

[16] Costs as ordered above be paid to the petitioner by way of Demand Draft within four weeks from today by Registered Post by the Department of Animal Husbandry while leaving it open to the Animal Husbandry Department to eventually recover the same from the officer responsible for delay in compliance. Compliance report be filed in the Registry within one week thereafter failing which the Registry is directed to list the matter for securing compliance.

[17] At this stage, it has come to the notice of this Court that accrual of liability of interest on the outstanding amount as ordered by the

Writ Court was @ 9% but due to typographical error it was mentioned as 12% in order dated 13.12.2022. Accordingly, the inadvertent typographical mistake is ordered to be corrected and the interest payable ordered to read as 9% instead of 12% in order dated 13.12.2022.

[18] Payment of the balance outstanding amount as per entitlement determined by the respondents by taking into account 9% rate of interest per annum instead of 12% rate of interest per annum as inadvertently typed in order dated 13.12.2022, be released to the petitioner within two weeks from today.

[19] Learned counsel for the petitioner fairly concedes that if any payment is received along with interest @12% per annum instead of 9% per annum as ordered by the writ Court, the same would be refunded by the petitioner forthwith to the Department.

[20] Instant petition is disposed of as above.

(B.S. Walia)
Judge

21.12.2022
'Amit'

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