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2023:PHHC:166584

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10064-2021
DECIDED ON: 14.09.2023

SHEELA RANI

.....PETITIONER

VERSUS

MUNICIPAL CORPORATION AND ANOTHER

.....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Harjass Sandhu, Advocate
for the petitioner

Ms. Sehej Sandhawalia, Advocate
for the respondents.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Articles 226/227 of the Constitution of India has been invoked by the petitioner for issuance of a writ in the nature of *Mandamus* directing the respondents to release the retiral benefits i.e. DCRG, Leave Encashment, Computation of Pension etc. on account of her retirement along-with interest @18% per annum from the date it became due.

2. Brief facts of the case are that initially the petitioner was appointed as Auxiliary Nurse Midwife (for short 'ANM') with the erstwhile Faridabad Complex Administration, Faridabad on adhoc basis vide order dated 28.09.1984 and as such she joined her duty on 29.9.1984. Thereafter, her services were regularized vide office order No.FCA (E-11)/84/3298

dated 19.11.1984 and her services were governed by Punjab Civil Services Rules in the matter of pay, entitlement of leave, pension etc. Subsequently, employees of Faridabad Complex Administration were governed by Faridabad Complex Employees Pension and General Provident Fund w.e.f. 16.4.1992. In the year 1994, Haryana Municipal Corporation Act, 1994 came into existence and erstwhile Faridabad Complex Administration was converted into Municipal Corporation, Faridabad. Consequently, petitioner became an employee of Municipal Corporation, Faridabad. Meanwhile, designation of 'ANM' was changed to Multipurpose Health worker (hereinafter referred to as 'MPHW') and the services of the employees are now governed by Haryana Civil Services (General) Rules, 2016 and with regard to pension/retiral benefits, it is governed by Haryana Civil Services (Pension) Rules, 2016. The petitioner was issued an office order dated 26.8.2020 stating that as per Rule 143 (1) of HCS (General) Rules 2016. Subsequently, another letter/order dated 5.10.2020 was issued by office Incharge of Respondent No.1 to respondent no.2-Financial Controller, Municipal Corporation, Faridabad whereby it was informed that petitioner is going to retire from service of Corporation w.e.f. 31.10.2020 and as per record of office, no departmental enquiry or court case is pending against the said official and as per the outstanding receipts received from head of concerned department, nothing is outstanding against said official. It was further requested in said letter that whatever arrears are due to petitioner same may be paid as per rules.

3. Learned counsel for the petitioner has contended that the petitioner stood retired from service w.e.f. 31.10.2020 on attaining the age

of superannuation and she should have been granted all the retiral benefits forthwith after the retirement but except EPF amount and monthly pension nothing was paid. Subsequently, the petitioner made a representation dated 25.2.2021 (Annexure P-4) to Respondent No. 1-Commissioner to release the remaining retiral benefits as she is facing financial hardship. When retiral benefits were not paid to the petitioner for almost 5 months, she got served a legal notice dated 30.3.2021 (Annexure-P-5) upon respondent No.1. Despite service the legal notice, remaining retiral benefits were not paid to the petitioner. Hence, the present petition.

4. Respondents have filed their reply by way of an affidavit of Bharat Bhushan Kalra, Financial Controller, Municipal Corporation, Faridabad stating that the present petition nothing survives in the present petition, as the petitioner has already been paid all the retiral benefits due to her i.e. an amount of Rs.7,93,260/- on account of leave encashment and Rs.13,09,879/- on account of DCRG and Rs.13,62,129/- on account of Pension Computation.

5. From the perusal of reply, it is evident that all the retiral benefits have already been disbursed to the petitioner but the same were paid to her in the Month of July, 2021 and the petitioner stood retired from service on attaining the age of superannuation on 31.10.2020, which is sufficient for this Court to infer that there is delay of more than six months in disbursing/releasing the retiral benefits to the petitioner.

6. It is well settled law that immediately after retirement of an employee, the department is under legal obligation to disburse his/her retiral dues in time. Reliance can be placed upon the judgment of a Full

Bench of this Court in the case of **“R.S. Randhawa vs. State of Punjab”, 1997 (3) RSJ 318**, wherein, it has been held that Government employees on his retirement becomes immediately entitled to pension and other retiral benefits in terms of Pension Rules and a duty is cast on the State to ensure disbursement of pension and other benefits to the retiree in time and normally, it would not exceed two months from the date of retirement, which time limit is also laid down by the Apex Court in the case of **“State of Kerala vs. M. Padmananbhan”, AIR 1985 SC 356**.

7. In view of the discussions made hereinabove, this Court is of the considered opinion that the petitioner is entitled for interest on the delayed payments. Accordingly, respondents are directed to pay interest @ 9% per annum on the delayed payments, from the date it became due till its actual realization.

8. In the afore-said terms, the present petition is disposed off.

14.09.2023
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(SANDEEP MOUDGIL)
JUDGE

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