

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1177-2018(O&M)
Date of Decision: 21.04.2023

JASPAL SINGH MANKO

....Petitioner(s)

Versus

PUNJAB WATER RESOURCES MANAGEMENT AND
DEVELOPMENT CORP LTD AND ORS.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. P.M. Kansal, Advocate for
Mr. V.K. Kaushal, Advocate,
for the petitioner.

Mr. Manish Joshi, Advocate,
for respondents No. 1 to 3, 5 and 6.

Mr. Arun William, AAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Article 226 of the Constitution of India seeking a writ in the nature of *Certiorari* for quashing of impugned order dated 09.02.2017 (Annexure P-7) passed by respondent No.3 vide which the claim of the petitioner has been rejected for release of an amount of Rs.64,610/- and the other benefits permissible to the petitioner after his retirement.

2. Learned counsel appearing on behalf of the petitioner has submitted that the petitioner had retired as SDE on 30.09.2013 and thereafter his retiral benefits were not paid to the petitioner. Thereafter with delay of about 2 years, the benefits were paid to the petitioner and so far as the

amount of Rs. 64,610/- is concerned, the same has been deducted from the leave encashment by way of a recovery in view of the fact that earlier when he was in service, then the Department of Personnel had issued ACP Scheme to provide financial benefits to the category of Junior Engineer and an increment was given to the petitioner after attaining service of 24 years. Thereafter, the State of Punjab had withdrawn the aforesaid benefits in the year 2005 but during the interregnum period, the petitioner was paid the aforesaid amount by respondent-Corporation on their own and it was not a case that the petitioner had played any fraud or has misrepresented to the respondent-Corporation.

3. Learned counsel specifically submitted that so far as the grant and withdrawal of the aforesaid increment is concerned, the petitioner confines the scope only to the extent of challenge to the recovery and not on the action of the respondents in withdrawing the same. He has also submitted that there is another grievance of the petitioner for which also a specific prayer has been made in the present petition that after his retirement, the retiral benefits have been paid to the petitioner with delay, although there is no date mentioned in the petition or in the impugned order and for the delayed release of benefits, he is entitled for interest @ 6% per annum.

4. On the other hand, learned counsel appearing on behalf of the respondent-Corporation submitted that the petitioner was granted the benefit of ACP in the year 2000 on the basis of the instructions issued by the Government of Punjab which were later on withdrawn but the petitioner was given the benefits of the aforesaid and the petitioner was paid an amount

of Rs.76,929/- at that point of time. He submitted that once the Government withdrew the earlier benefits granted to the employees then they were not entitled for the same and therefore recovery of an amount of Rs.64,610/- was effected from the petitioner from his leave encashment. He submitted that so far as the delayed payment of the other retiral benefits is concerned, there is no mention with regard to the same either in the impugned order or in the reply filed by the respondent-Corporation.

5. I have heard the learned counsel for the parties.

6. The scope of the present petition is pertaining to two grievances of the petitioner. Firstly that when he was in service, then from 2000 to 2005 on the basis of the instructions issued by the Government of Punjab, he was granted benefit of increment on the basis of ACP Scheme for granting of financial benefits and after his retirement, an amount of Rs. 64,610/- has been deducted from his leave encashment which could not have been done in view of the judgment of the Hon'ble Supreme Court in *State of Punjab and others Vs. Rafiq Masih (White Washer) etc., 2015(4) SC 334* since the same cannot not be done after his retirement. The second grievance of the petitioner is that on the delayed payments, he is entitled for the grant of interest and there is no justification for delaying the payments. So far as the first grievance is concerned, the petitioner has confined the scope of the prayer only to the extent that recovery could not have been effected and not the action of the State of the Punjab or the Corporation for withdrawing the benefits granted to the employees. The Hon'ble Supreme Court in *State of Punjab and others Vs. Rafiq Masih (Supra)* has categorically observed that once a benefit has been granted to the employee

by the Government on their own, then after the retirement, the same cannot be recovered. The prayer of the petitioner with regard to the same is covered by the aforesaid judgment and therefore it is held that the amount which has been recovered by the respondent-Corporation from the retiral benefits of the petitioner is not in accordance with law. Therefore, the petitioner is entitled for the grant of refund of the aforesaid amount and no further recovery can be effected from the petitioner. So far as the second prayer of the petitioner is concerned, although no date has been mentioned that on which date the petitioner has been granted the pensionary benefits but on the basis of the arguments addressed by the learned counsel for the parties, there appears to be some delay in disbursement of the pensionary benefits to the petitioner. There is no reasoning or justification which has come up in the reply or in the impugned order Annexure P-7. Therefore it is directed that in case there is any delay in disbursement of the retiral benefits to the petitioner, then the petitioner shall be entitled for interest on that delay as well.

7. Consequently, the present petition is allowed. The petitioner shall be entitled for interest on the aforesaid recovered amount as well as delayed payment, if any, @ 6% per annum from the date of retirement of the petitioner till the date of its disbursal. The aforesaid amount be calculated by the respondent-Corporation and be paid to the petitioner within a period of four months from today.

21.04.2023

rakesh

(JASGURPREET SINGH PURI)**JUDGE**

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