

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-1936-2016 (O&M)

Decided on 30.11.2023

Sona Devi

... Petitioner

VS.

DHBVNL & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Sushil Jain, Advocate for the petitioner

Mr. Sunil Kumar Dhanda, Advocate for the respondents

Sandeep Moudgil, J.

The petitioner has filed the instant writ petition under Article 226 of the Constitution seeking a writ in the nature of mandamus for directing the respondents to release the retiral benefits of the petitioner and to pay interest on the withheld amount from the date of death of the husband of the petitioner i.e. 26.11.2012 till actual realization of the same.

Learned counsel for the petitioner contends that the benefits for which the petitioner is entitled to, after the death of her husband, who was working with the respondents, are being unjustifiably withheld. He argues that there is no finding recorded by the competent authority, after following the due procedure as envisaged under law, that the husband of the petitioner was liable to refund excess payment as being alleged by the respondents inasmuch as the details of only one charge-sheet has been given which is dated 04.04.2012 and in the said charge-sheet, the disputed amount is Rs.7,458/-.

On the other hand, learned counsel for the respondents states that memos were issued to the husband of the petitioner for recovery of the

amount as described in paragraph 2 of the written statement filed by respondents No.1 to 3 wherein it has been mentioned that charge-sheet dated 04.04.2012 received by the husband of the petitioner on 26.04.2012 and the same was never contested by the petitioner or his LRs and thereafter, in the enquiry report dated 04.09.2012, the petitioner (Hoshiyar Singh, AFM) was found responsible for illegal shifting of HT/LT line and for drawing of 63 KVA T/F store by making/framing a bogus estimate as is evident from the memos issued against the husband of the petitioner i.e. Memo No 5078 dated 10.07.2012 (Annexure R-5) amounting to Rs. 95.38 lacs, Memo no. 4632 dated 18.05.2012 for illegal work carried out by the husband of the petitioner (Annexure R-6), Memo no 41/PF- 4382 Dated 19.07.2012 (Annexure R7) etc.

Heard learned counsel for the parties and gone through the record.

Admittedly, the proceedings were initiated after the retirement of the petitioner. As per Rule 2.2 (b) of the Punjab Civil Services Volume II Part I (for short, the Rules'), the 'departmental proceedings' shall be deemed to be instituted when the charges were framed against the pensioner. So far as present case is concerned, no charge sheet was served as stipulated under Rule 2.2 (b) of the Rules. In the present case, after the death of husband of the petitioner i.e. on 26.11.2012, the alleged show cause notices etc. were issued and neither any departmental proceedings or charge-sheet was ever issued. Therefore, in absence of such events which is otherwise mandatory as per Rule 2.2(b) of Rules *ibid*, the petitioner cannot be held liable for the said damages and as such the said recovery could not be effected. A similar view was expressed by this Court in **Ram Phal vs. Uttar Haryana Bijli Vitran**

Nigam Limited and others (CWP No.1318 of 2009) decided on 8.1.2010, wherein this Court held that mere service of notice that did not culminate in an enquiry or a finding that the petitioner was liable for such a sum, cannot be justifiable cause to withhold the retiral benefits

Accordingly, this writ petition is allowed and the respondents are directed to release the retiral/pensionary benefits to the petitioner (being widow of Sh. Hoshiar Singh) i.e. Gratuity, Leave encashment, GIS, commutation of pension and full pension, alongwith interest @ 9% p.a. from the due date i.e. death of the husband of the petitioner on 26.11.2012 till actual realization of the same, within a period of one month from the date of receipt of certified copy of this order.

Ordered accordingly.

30.11.2023
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No