

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-25248-2015 (O&M)
Date of Decision: 27.07.2023

Davinder Kaur

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Naveen Kumar, Advocate for
 Mr. K.L. Arora, Advocate
 for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

Mr. Deepak Kohli, Advocate for
Mr. Kashish Garg, Advocate
for respondent Nos.4 and 5.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner has approached this Court praying for direction to release retiral benefits such as pension, commuted value of pension, GPF, GIS etc. and also for release of two D.A. installments which were due in January, 2014 and July, 2014 on account of revision of the pay scales.
2. The respondents have filed their reply and stated in para no.4 and 5 as under:

“4. That thereafter the actual case for voluntary retirement was received in the office of answering respondent on dated 29.12.2015 and vide order No. 6512 (E-2) 48121-14/17-15 E-2(3) dated 19.01.2016 the case for voluntary retirement of petitioner has been approved post facto w.e.f. 30.04.2015. The petitioner has already received Rs. 2,53,734 of Leave Encashment on dated 24.07.2015, Rs. 7,12,330/- of Gratuity on dated 05.08.2015 on the basis of the fake approval of her case of voluntary

retirement. To redress the grievance of the petitioner the Department issued post facto approval vide order No. 6512 (E-2) 48121-14/17-15 E-2(3) dated 19.01.2016 and granted voluntary retirement to the petitioner and there after the process to disburse the retrial benefits was initiated. She has also received Rs. 8,58,294 of G.P.F. on dated 09.03.2016 on the basis of approval granted on 19.01.2016. The bills of Rs. 12,846 of G.I.S. and Rs. 6,256 of arrear of D.A. has been submitted vide token number 16565 of 05.02.2016 and 12191 of 06.11.2015 in the concerned treasury and efforts are being made to get them credited in the account of the petitioner.

5.That the pension case of the petitioner has been forwarded to Accountant General (A & E), Punjab, Chandigarh vide letter No. 130 dated 13.03.2016 (being competent authority) for necessary sanction and bill No. 76 of dated 17.03.2016 has been submitted in the concerned treasury for Rs. 3,04,801 in lieu of provisional pension for the period 01.04.2015 to 29.02.2016 (11 months).”

3. The delay in disbursement of the amount has been stated to have occurred as the earlier approval letter dated 22.05.2015 was found to be fake and fabricated as there had been no approval given by the concerned Director. It is also stated that enquiry was initiated, however, at the same time, *post facto* approval was granted subsequently vide order dated 19.01.2016 and amounts have already been released. However, 10% of the gratuity pension has been withheld till the final decision is taken regarding the fake approval.
4. I have considered the submissions.
5. The respondents have admitted as above of granting voluntary retirement to the petitioner *post facto* w.e.f. 30.04.2015. Once retirement has been granted w.e.f. 30.04.2015, no enquiry can be conducted after her retirement nor any of her pension or retirement benefits can be withheld.

- 6. The action of the respondents in withholding 10% of the amount of gratuity and pension is found to be wholly arbitrary and illegal. There is no rule under the Pension Rules to withhold gratuity and pension without there being any punishment order.
- 7. Since a charge-sheet was not issued to the petitioner during her service, subsequently conducting an in-house enquiry by the respondents would not authorize them to withhold the 10% amount.
- 8. Writ Petition is accordingly *allowed*.
- 9. The said amount of 10% of gratuity and pension shall also be released along with interest @ 9% per annum.
- 10. Pending application(s), if any, also stands disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

July 27, 2023

Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |