

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

205

**CWP No.26320 of 2014
Date of Decision : 22.8.2023**

*Ram Avtar Gupta**..... Petitioner**versus**State of Haryana and others**..... Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Anand Bhardwaj, Advocate, for the petitioner

Mr. Parveen Mehta, DAG, Haryana

Mr. Rajesh Gaur, Advocate, for respondents no.4

Mr. Padamkant Dwivedi, Advocate, for respondents no. 5

TRIBHUVAN DAHIYA J. (ORAL):

This petition has been filed seeking a writ of *certiorari* quashing the impugned order dated 14.5.2014 (Annexure P-7), whereby respondent no.3/Engineer-in-Chief asked the petitioner to tender affidavit to respondent no.4/Corporation, undertaking to refund the amount of leave salary and pension contribution, if the same is found to have already been deposited by the Corporation to the parent Department; and also the order dated 28.5.2014 (Annexure P-8), asking for the petitioner's affidavit in terms thereof.

2. As per facts on record, the petitioner was appointed as Section Officer in the Irrigation Department on 11.2.1977, and sent on deputation to respondent no.4/Corporation, the same day. He remained on deputation

with the Corporation till 30.4.1989. On 1.5.1989, he was again sent on

deputation to respondent no.5/Authority and remained there till 31.8.1995. On completing the deputation period, he joined the parent Department on 1.9.1995, and superannuated from service on 30.4.2013. Thereafter, he was released due pensionary benefits also. The dispute only remains with respect to pensionary benefits for the period he remained on deputation with the respondent Corporation, i.e., 11.2.1977 to 30.4.1989.

3. Learned State counsel, by referring to the written statement filed on behalf of respondents no.1 to 3, submits that Accountant General, Haryana, vide letter dated 28.3.2013, approved the petitioner's qualifying service of twenty eight years and six months for pensionary benefits, and the same already stand released to him. Only an amount of Rs.1,14,007/- remains to be paid as balance of gratuity for which leave salary and pension contribution remains to be deposited by the respondent Corporation.

4. Learned counsel for respondent no.4 submits that the Corporation is already defunct, but is willing to deposit the said contribution. The only requirement is that the petitioner will have to furnish an affidavit in terms of the format, Annexure P-4, wherein it is one of the conditions if at any subsequent stage it is found that leave salary and pension contribution regarding the petitioner's deputation period had already been deposited, he shall refund the same together with interest to the Corporation without any reservation, objection and litigation.

5. Learned counsel for the petitioner contends that this condition in the affidavit is to the petitioner's prejudice and it should not be made a part of the affidavit. It is for the Corporation to deposit the contribution,

and the petitioner cannot be made to refund the amount even in future.

6. Be that as it may, this Court is not inclined to go into the validity of a condition in the affidavit requiring the petitioner to deposit the leave salary and pensionary contribution in case the same is found to have been deposited by the Corporation. As of now, the refund of contribution is not being asked, and any possibility of it being asked in future is also remote, as the Corporation is already defunct. Besides, this is a standard format affidavit required to be tendered by all the employees whose salary and pension contributions are deposited by the Corporation.

7. In this situation, learned counsel for the petitioner submits that the petitioner will furnish the affidavit in terms of format, Annexure P-4, within a period of two weeks from today. In case, it is so done, the Corporation shall deposit the contribution within four weeks thereafter, and the parent Department/respondents no.1 and 2, shall release the due pensionary benefits to the petitioner within six weeks therefrom.

8. Disposed of.

(TRIBHUVAN DAHIYA)
JUDGE

22.8.2023

Ashwani

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