

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

CWP-8278-2015 (O&M)

Date of decision: 20.01.2023

Achhru Ram Sharma

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Gunjan Mehta, Advocate for the petitioner
Mr. D.K.Singal, Addl. AG, Punjab

ANIL KSHETARPAL, J (Oral)

1. This writ petition has been filed with the following substantive prayers:-

*“(1) Issue a writ, order or direction especially in the nature of mandamus commanding the respondents to release the petitioner benefit of pension, gratuity, leave encashment, revised scale of pay and promotion at par with his junior from due date with arrears of these benefits along with interest @ 18% from the date the amount became due to the actual date of payment.
(2) Issue any other order or direction deemed fit and proper in the facts and circumstances of the case to which the petitioner is held entitled to.”*

2. In reply, the respondents have filed detailed replies on different dates of hearing.

3. Heard the learned counsels representing the parties at length and with their able assistance perused the paperbook.

4. Learned counsel representing the petitioner admits that the pensionary benefits including gratuity, leave encashment have already been released. He submits that the petitioner is also being paid regular

pension. However, he contends that the claim of the petitioner with regard to the revised pay scale and promotion from the date on which his juniors were promoted has not been accepted.

5. In the reply dated 17.05.2017, the respondents have explained that the petitioner remained on leave without pay for a sufficiently long time and on that ground, the remaining claim has been rejected.

6. Relevant paragraphs 3 and 4 of the written statement are extracted as under:-

“3. That, it is pertinent to mention here that the petitioner remained on leave without pay for following period (Annexure R-1):-

Sr.No	Period	Name of Office from where proceeded on leave/ unauthorized leave	Service Book page number	No and date of order for the sanction of leave
1.	1-5-1988 to 27-5-1988	Executive Engineer, Public Health Division No.2, Amritsar	Page 13 without pay 27 days	C.E Pb. RWS North Patiala 16011-17 date6-4-1993
2.	1-5-2003 to 7-10-2003	Executive Engineer, Public Health Division, Gurdaspur	Page 33 without pay 160 days	C.E Central Ptl 33449-51 date 21.7.2009
3.	9-10-2003 to 4-11-2003	Executive Engineer, Public Health (RWS) Division, Gurdaspur	Without pay 27 days (page 39)	C.E Central Ptl no.2452-54 date 21.1.2008
4.	17-10-2005 to 29-12-2006	Executive Engineer, Public Health Division, Gurdaspur	Without pay 439 days	C.E W/S Ptl no. 42924-26 date 24.8.2006
5.	30-12-2006 to 31-12-2007	Executive Engineer, Public Health Division, Gurdaspur	Without pay 366 days	C.E North Ptl no.2459-61date 21.1.2008
6.	1-1-2008 to 30-12-2010	Water Supply & Sanitation Division, Gurdaspur	Self Employment without pay Page No.1096 days	C.E North Ptl no.2448-50 date 21.1.2008

In addition, the petitioner remained on leave from 17.06.1987 to 02.11.1987 (139 days) on full pay, 180 days leave on half pay during 03.11.1987 to 30.04.1988.

During the period of self employment leave period (01.01.2008 to 31.12.2010) the petitioner applied for voluntary retirement w.e.f 1.1.2008 (Annexure R-2) and his voluntary retirement has been accepted by the answering respondent N.1 vide order dated 28.7.2009.

That the petitioner approached the office of the answering respondents on 16.02.2012 after a period of 4 years after his voluntary retirement and submitted his pension papers. Hence, the case of the petitioner was forwarded on 16.12.2013 by the answering respondent No.3 to answering respondent No.2 for obtaining necessary permission for granting pension and other retiral benefits. But due to the reason of absence of the petitioner from his service during the above mentioned period, the matter remained under correspondence between the respondent No.2 and 3 for removing the discrepancies in the case.

4. That, it is further brought to the notice of the Hon'ble Court that the petitioner remained posted in the office of Executive Engineer, Water Supply and Sanitation Division, Amritsar and during his posting at Amritsar an amount of Rs.16,72,532/- was outstanding against him. This amount of Rs.16,72,532/- was adjusted in account vide Transfer Entry Order No.01 dated 03/2016, made by EE, W/S & sanitation, division No.02, Amritsar letter no.1046-49 dated 03.03.2016 (Annexure R-3). After that the pension case of the petitioner was forwarded to the Accountant General Punjab, Chandigarh vide letter No.16296 dated 13.06.2016 by respondent No. 2. But the Accountant General Punjab, Chandigarh returned the pension case of the petitioner with some observations vide their letter dated 29.07.2016 Ultimately Accountant General Punjab, Chandigarh sanctioned the pension case and allotted PPO no. 1117053793 dated 17.01.2017, (Annexure R-4).

An amount Rs.4,06,010/-, In lieu of DCRG sanctioned vide Chief Engg. (North) letter No. 3818 dated 20.02.2017 (Annexure R-5) and online bill No. 06 dated 21.04.2017 (Annexure R-6) was submitted to District Try. Office Gurdaspur. There is no unutilized leave at the credit of the petitioner, therefore, no amount of leave Encasement is payable retiral benefits to the petitioner Admissible have been sanctioned and petitioner is getting regular monthly pension. Therefore, the present petition has become infructuous. The delay in the retiral benefits is solely due to of petitioner, Hence petitioner is not entitled for any interest as claimed by him in the present writ petition."

7. The claim of the petitioner with regard to promotion from the

date on which his junior was promoted has been answered by the respondents in para 5 of the written statement which reads as under:-

That, the petitioner sought retirement, when he was on leave (without pay) on different periods as mentioned in above said Para no.3, as well as leave for self employment from the period of 1.1.2008 to 31.12.2010. At the time of DPC meeting dated 26.09.2007 he was on unauthorized leave absence from period of 30.12.2006 to 31.12.2007. This period of unauthorized leave/absence was sanctioned as leave without pay vide letter No. WS/E- 2/(4) 2459-61 dated 21.01.2008. Therefore, petitioner was not considered for regular promotion for higher post.”

8. It is evident that the petitioner has been attending the office intermittently. In these circumstances, this Court does not find it appropriate to grant the relief in the exercise of its writ jurisdiction. The petitioner, if so advised, may avail the alternative remedy.

9. Disposed of.

10. All the pending miscellaneous applications, if any, are also disposed of.

20.01.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE