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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-20585-2022 (O&M)
Date of Decision: 25.01.2023

DEEPAK

....Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. G.P. Vashisht, Advocate, for the petitioner.

Ms. Lavanya Paul, DAG, Punjab.

Mr. M.J.S. Bedi, Advocate for respondent No.4.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Article 226/227 of the Constitution of India seeking a writ in the nature of Mandamus directing the respondents to release the pensionary benefits i.e. gratuity, leave encashment, provident fund and GIS etc.

Learned counsel for the petitioner has submitted that the petitioner was appointed as Safai Sewak on 01.11.1988 and after serving more than 33 years, he retired from the service of respondent No.4- Municipal Council as a Sweeper on 30.04.2022. Thereafter, the petitioner was paid only Rs.6,00,000/- but the total amount which was due towards the petitioner is Rs.17,22,440/- as per the affidavit filed by the Municipal

Council. He submitted that the daughter of the petitioner got married on 18.12.2022 and he had to take loan for the purpose of marriage of his daughter @ 10% per annum and has submitted that it was because of the default of the respondent-Municipal Council that even after the petitioner had retired on 30.04.2022, the retiral benefits were not paid to him. He submitted that the petitioner is a poor man and has retired as a Sweeper and there is no impediment or embargo for non-payment of retiral benefits to the petitioner. He submitted that the pension and pensionary benefits is not the bounty of the State and it belongs to an employee for which he is entitled at the time of retirement so that he can make his both ends meet and also to carry out various responsibilities such as marriage of children which has been done by the petitioner in the present case.

Mr. M.J.S, Bedi, Advocate appearing on behalf of respondent No.4-Municipal Council has submitted that a short reply has been filed by the respondent-Municipal Council and while referring to the same, he submitted that it is correct that the petitioner is entitled to an amount of Rs. 17,22,440/- at the time of retirement and only Rs. 6,00,000/- has been paid to the petitioner by way of five different cheques from April, 2022 till October, 2022 and the remaining balance amount of Rs. 11,22,440/- is outstanding. He further submitted that as per the reply filed, the same could not be released to the petitioner because of financial constraints and it will be paid to the petitioner as expeditiously as possible preferably within a period of six months.

I have heard the learned counsel for the parties.

It is an admitted position that the petitioner is entitled for an

amount of Rs. 17,22,440/-, even as per the affidavit filed by the Municipal Council and admittedly, he has been paid only Rs. 6,00,000/-. The reasoning given by the Municipal Council is that due to financial constraints the same could not be given and it has been also stated in the reply that the benefits will be given to the petitioner as expeditiously as possible preferably within a period of six months.

It is a settled law that pension and pensionary benefits are not the bounty of the State and rather it is a Constitutional right of property of an employee. In the present case, there is no dispute with regard to the right to receive pensionary benefits. So far as the grant of pension is concerned, the same has already been started.

A perusal of para No.4 of the affidavit filed by the Municipal Council would show where it is so stated by the Executive Officer of the Municipal Council that the remaining benefits will be paid to the petitioner and have added three riders. Firstly, it will be paid in installments, secondly as soon as possible and thirdly preferably within six months.

This Court is of the view that the payment of pensionary benefits cannot be dependent upon conditions imposed by way of aforesaid three riders and the financial constraints are no ground for denial of pensionary benefits. Learned counsel for the petitioner has rather submitted that the petitioner had to borrow money for the purpose of marrying his daughter in December, 2022.

In view of the aforesaid position, this Court is of the view that it is incumbent upon the respondent-Municipal Corporation to pay the retiral benefits to the petitioner promptly. The period of six months stated

by the Executive Officer is highly unreasonable and unjustified.

In view of the above, respondent No.2-Municipal Council is hereby directed to pay the remaining amount of retiral benefits and arrears of any other payment to the petitioner within a period of two months from today alongwith interest @ 6% per annum.

It is made clear that the directions issued by this Court shall be carried out by the Municipal Council positively within the aforesaid period.

The present petition is disposed of accordingly.

25.01.2023
rakesh

(JASGURPREET SINGH PURI)
JUDGE

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