

113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-19992-2023

Date of decision: 12.09.2023

Itwar Singh

.....Petitioner

V/s

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Harbans Sharma, Advocate
for the petitioner.

DEEPAK MANCHANDA J. (ORAL)

The instant writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus, directing the respondents to release the revised retiral benefits of the petitioner after grant of proficiency step up after 24 years of service from 1999 and also grant all consequential benefits to the petitioner and with a further prayer to correctly fix the pay of the petitioner after grant of proficiency step up after 24 years of service as Junior Assistant and calculate the revised retiral benefits of the petitioner on the pay thus fixed along with interest @ 12%.

Learned counsel for the petitioner contends that the petitioner was appointed as a Clerk in Department of Local Bodies, Government of Punjab on 01.11.1975 on regular basis. The petitioner was designated as Senior Clerk in the higher grade in the hierarchy of pay scales on the basis of unblemished service record and then further placed as Junior Assistant as per policy framed by Government of Punjab and adopted by Municipal Council, Ludhiana in the next higher scale. The petitioner was promoted as Inspector on 27.09.2006. Learned Counsel submits that the petitioner was entitled to proficiency step up after 24 years

of service in one cadre of Clerks/Senior Clerks/Junior Assistant which is one cadre but the same has not been granted even till the retirement of petitioner on 28.02.2010 for which he had made various representations. The petitioner is retired from service on attaining the age of superannuation and no chargesheet etc., had been served upon him till his retirement on 28.02.2010 and in the retirement order dated 02.03.2010, it was mentioned that 50% gratuity and 25% pension of the petitioner has been withheld. The petitioner made representations dated 05.01.2004 and 12.01.2004 but no action was taken by the respondents. Learned counsel submits that during his service on the post of Inspector, Municipal Council, Ludhiana, the petitioner was posted in Block No.27, but a chargesheet was issued against him vide order dated 13.01.2010 which was served on the petitioner after his retirement on dated 05.03.2010 and in this regard, short reply was filed by the petitioner stating that chargesheet had been issued in relation to Block No.17, Sham Nagar, Street No.6, in Municipal Council, Ludhiana in which he was not posted. Since, the chargesheet dated 13.01.2010 issued against the petitioner was against the rules, so he filed writ petition No.18801-2016 for dropping/setting aside the chargesheet and the enquiry proceeding and release his balance retirement dues and the same was disposed of vide order dated 31.03.2021 and the petitioner was held entitled to interest @ 7% on the amount of delayed payments. Learned counsel further submits that since no action was taken on the representations submitted by the petitioner, he has served a legal notice dated 07.03.2023 (Annexure P-9) to respondents, which has not been taken into consideration till date and the petitioner would be satisfied if necessary directions are given for deciding the legal notice in a time bound manner.

Notice of motion.

At this stage, on asking of the Court, Mr. Arun Gupta, AAG Punjab, who is present in the Court, accepts notice on behalf of the respondents No.1 to 3 and submits that the respondent No.4 is the competent authority to decide the legal notice and does not object to the prayer made by learned counsel for the petitioner.

In view of the pleadings in the present petition, without expressing any opinion on the merits of the case or the claim being made by the petitioner in the legal notice dated 07.03.2023 (Annexure P-9), respondent No.4 is directed to decide the legal notice, by passing a speaking order within a period of 8 weeks from the date of receipt of certified copy of this order with a further direction that if the petitioner is found to be entitled to the claim mentioned in the abovesaid legal notice, necessary disbursement of funds shall be made to him within a period of 8 weeks thereafter.

The petition stands disposed of.

(DEEPAK MANCHANDA)
JUDGE

12.09.2023
Sapna

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