

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-1361-2020 (O&M)

Decided on 23.11.2023

Sudha Chhikara

... Petitioner

VS.

Chaudhary Charan Singh Haryana
Agriculture University, Hisar & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Jitender Nara, Advocate for the petitioner

Mr. Shreenath A Khemkha, Advocate for the respondents

Sandeep Moudgil, J.

The petitioner has filed the instant writ petition under Article 226 of the Constitution seeking a writ in the nature of certiorari quashing the order dated 25.02.2019 (Annexure P2) issued by respondent No.2 vide which no dues certificate issued to the petitioner on 17.10.2018 (Annexure P1), has been cancelled. Further direction is sought to the respondents to release the retiral benefits i.e. gratuity, CPF, leave encashment approximately amounting to Rs.1,10,00,000/- along with interest on delayed payments of retiral benefits from the date of retirement of the petitioner till the date of realization and also for a direction to grant permanent pension to the petitioner from the date she became entitled.

Learned counsel for the petitioner submitted that the petitioner retired w.e.f. 31.01.2019 from the post of Senior Coordinator after rendering almost 35 years of service in the respondent-University and due to pendency of CWP-4702-2018 "Dr Vedpal Singh vs. the Lokayukta, Haryana & Ors.", the NDC could not be issued as a result of which, petitioners retiral

dues/pension has been withheld by the respondents. It is further averred that the in the aforesaid writ petition filed by Dr. Vedpal Singh – the complainant, the genuineness and authenticity of Ph.D. degree awarded to the petitioner by the Agra University (now Dr.BR Ambedkar University, Agra) has been challenged.

Mr. Jitender Nara, Advocate appearing on behalf of the petitioner contended that the respondents have already filed reply by way of an affidavit dated 17.08.2018 in CWP-4702-2018 wherein it has been categorically averred that the Ph.D. degree of the petitioner has been verified through an enquiry committee constituted by the respondent-University which visited the Agra University and the Registrar of the said University issued letter dated 20.09.2013 to the effect that Dr. Sudha Chikkara was issued Ph.D. degree in Home Science dated 22.07.1997 and as such, the degree issued to the petitioner has been duly verified and found to be genuine.

It is further pleaded that the respondents cannot withhold the pensionary/retiral dues of the petitioner on the basis of pendency of a complaint filed by Dr.Vedpal which is against the settled proposition of law inasmuch as the Gratuity, pension and other pensionary benefits could not be withheld even on the pretext of pendency of civil/criminal litigation or even departmental proceedings.

Mr. Shreenath A. Khemka, Advocate appearing on behalf of the respondents, on the basis of the averments made in the written statement dated 26.06.2020 submits that NDC could only be issued if no recovery lay against the petitioner and because the validity of the petitioner's Ph.D. degree was *lis pendens* in CWP-4702-2018, therefore, there was no finality on the

issue of whether any recovery has been made from the petitioner. He further submitted that the University released all the pensionary benefits except Rs.20 lacs which has been parked in a fixed deposit and shall be paid to the petitioner after the decision in CWP-4702-2018, although, the petitioner continues to receive full pension of Rs.96,900/-.

Heard learned counsel for the parties and gone through the record.

In **State of Kerala vs. M. Padmanabhan Nair, AIR 1985 SC 356**, the Apex Court has held that:-

"Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till the actual payment."

In **Kerala State Road Transport Corporation v. K.O. Varghese, (2003) 12 SCC 293**, referring to *corpus juris secundum*, it is stated that the title 'pension' includes pecuniary allowances paid periodically by the Government to persons who have rendered services to the public or suffered loss or injury in the public service, or to their representative; who are entitled to such allowances and rate and amount thereof; and proceedings to obtain and payment of such pension.

In view of the facts and law, as discussed above, there is no iota of doubt that the petitioner cannot be deprived of getting pensionary benefits and his legitimate claim of interest on delayed payment of his retirement

benefits on the plea of pendency of the judicial proceeding moreso, when such pendency of judicial proceeding is only attributable to the counterpart of the petitioner who has been after the petitioner since 29.08.2017 when the complainant Dr. Vedpal, knowing fully well that the Ph.D. degree of the petitioner has been duly verified and found to be authentic, cantankerously kept on filing complaints even before the Lokayukta, Haryana and having failed there, he filed CWP-4702-2018. There is no departmental enquiry pending against the petitioner nor is there any material on record to suggest that there has been any legal embargo against disbursal of the pension and retiral benefits to the petitioner, *in toto*. In that case, the petitioner is entitled to get interest on the delayed payment of retirement dues.

Accordingly, this writ petition is allowed and the order dated 25.02.2019 (Annexure P2) cancelling the NDC issued to the petitioner on 17.10.2018 (Annexure P1) is hereby set aside and the respondents are directed to release and disburse all the retiral benefits i.e. complete pension, Gratuity, CPF, leave encashment and commutation of pension, as admissible to the petitioner in law and in view of the service rendered by her, along with interest @ 9% p.a. on the delayed payments of retiral benefits from the date of retirement of the petitioner till the date of actual realization.

Ordered accordingly.

23.11.2023

V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No