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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-6098-1999(O&M)
Date of Decision: 20.09.2024

Bansi Lal (since deceased through LRs)

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rahul Bansal, Legal Aid Counsel,
for the petitioner.

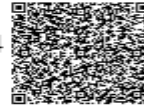
Mr. Kapil Bansal, DAG, Haryana.

Mr. S.K. Mahajan, Advocate, for respondent No.3.

JASGURPREET SINGH PURI, J. (Oral)

1. 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 grant interest @ 18% per annum on all the retiral benefits i.e. pension, commutation of pension, leave encashment and gratuity etc. w.e.f. the date the amount was due till the date of actual payment.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner retired as Office Superintendent from Municipal Council, Gurugram on 31.05.1993 and he was not paid any retiral benefits after his retirement, although retiral benefits were admissible to him immediately on his retirement. He further submitted that even as per the reply filed by respondent No.3- Municipal Council, Gurugram, the retiral benefits were



paid to the petitioner on 06.03.1997 after a delay of about 4 years.

3. Learned counsel submitted that it is a case where earlier when the petitioner was posted at two different Municipal Councils, namely, Sonapat and Karnal, there were some enquiries against the petitioner and the same have been dealt with by the Director, Urban Local Bodies, Haryana after the retirement of the petitioner vide Annexure P-6, Annexure P-7 and Annexure P-8, whereby there was no order of punishment against the petitioner at all and rather the petitioner was exonerated. He further submitted that at the time when petitioner retired from Municipal Council, Gurugram, the Municipal Council, Gurugram ought to have got the entire record from the other Municipal Councils as it was a duty of the Municipal Council, Gurugram to have got the entire record and it was not the duty of the petitioner as so projected by the respondent-Municipal Council, Gurugram that since the petitioner himself was working as a Superintendent, it was his duty to have got the entire records. He further submitted that retiral/pensionary benefits are the Statutory and Constitutional Rights and it is a duty of the State to have paid the same to the petitioner well in time.

4. While referring to aforesaid Annexure P-6, Annexure P-7 and Annexure P-8, learned counsel submitted that since there was no punishment order or any kind of adverse orders against the petitioner at the time of his retirement, there was no occasion for the respondent-Municipal Council, Gurugram to have withheld his retiral benefits. He further submitted that the retiral benefits can always be withheld only in case there is a specific provision of law for withholding the same and not only should there be a specific provision of law in existence but the specific provision of law has to be invoked and power has to be exercised by passing an order but the



present is a case where admittedly without any reason the aforesaid benefits were withheld by the respondents. He also referred to Annexure P-19, whereby rather the Director, Urban Local Bodies, Haryana has written a specific letter of the Executive Officers of the Municipal Committees of Sonipat and Gurugram to grant interest to the petitioner in accordance with law but the same has not been done by any of the Municipal Councils.

5. Learned counsel also submitted that the scope of the present petition is only confined to grant of interest on the delayed payments because the pensionary and retiral benefits have been paid to the petitioner in the year 1997.

6. On the other hand, learned counsel appearing on behalf of the respondent-Council while referring to paras No.13 and 14 of the reply filed by the respondent-Council submitted that the petitioner himself was responsible for the delay because he was working as a Superintendent in the Municipal Council, Gurugram from 13.12.1985 to 31.05.1993, i.e. the date on which he superannuated and it was his own responsibility to have completed his case file and to have got the no objection from the other Municipal Council etc. but it was not done by him and therefore, he himself was at fault. He further submitted that the reason for delay was that there was no record pertaining to the proceeding against the petitioner in the aforesaid Municipal Councils i.e. Karnal and Sonapat and no decision was taken by any competent authority in that regard and therefore, no retiral benefits were paid to the petitioner and it was only thereafter in the year 1997 that the same have been paid because vide Annexure P-6, Annexure P-7 and Annexure P-8, the Director, Urban Local Bodies, Haryana decided the aforesaid enquiries pertaining to Sonapat and Karnal and since the



Director, Urban Local Bodies, Haryana had decided the same in the year 1996, the petitioner was paid the retiral benefits in the year 1997 and therefore, the delay was not admissible to Municipal Council, Gurugram and no interest is liable to be paid by Municipal Council, Gurugram.

7. I have heard the learned counsels for the parties.

8. It is a case where the petitioner is claiming interest on the delayed payment of his retiral/pensionary benefits. The petitioner retired from Municipal Council, Gurugram on 31.05.1993, where he worked from 13.12.1985. Earlier he was working in two different Municipal Councils of Sonapat and Karnal and his service relates back to the year 1965. Some enquiries were initiated against the petitioner with regard to the aforesaid two Municipal Councils but they were not culminated and did not reach any logical conclusion. The reason for delay of retiral benefits as so stated by the learned counsel for the respondent-Council was that because of the pendency of the aforesaid enquiries against the petitioner and non-supply of record by them, there was a delay in disbursal of the retiral benefits of the petitioner.

9. For the purpose of considering the aforesaid plea taken by the learned counsel for the respondent-Council, reference to Annexure P-6, Annexure P-7 and Annexure P-8 are required to be made in this regard. A perusal of Annexure P-6 would show that an order has been passed by the Director, Urban Local Bodies, Haryana on 16.01.1996 in which it has been so observed that the petitioner was earlier suspended by the M.C, Sonapat way back in the year 1965 and he was thereafter reinstated in service. The petitioner was never served with any charge-sheet and ultimately the Director, Urban Local Bodies, Haryana decided that the previous suspension



of the petitioner from 24.06.1965 to 27.07.1965 be treated as period on duty for all purposes. In this way, there was nothing adverse against the petitioner with regard to aforesaid suspension of the petitioner which was done in the year 1965 and ultimately the Director Urban Local Bodies, Haryana decided in favour of the petitioner by treating it to be period on duty for all purposes. Thereafter, vide Annexure P-7, the Director Urban Local Bodies, Haryana decided another enquiry against the petitioner which was decided on 09.02.1996, wherein when the petitioner was working in M.C, Sonapat, he was suspended in the year 1980, there were number of charges against the petitioner but ultimately the Director, Urban Local Bodies, Haryana vide Annexure P-7 came to a conclusion that in view of the explanation given by the petitioner regarding charges levelled against him and on account of non-production of the relevant record by the M.C, Sonapat, the petitioner should not be given any amount other than the suspension allowance which was given to him from 15.09.1980 to 16.10.1980. In this way, the subject matter of the aforesaid was only till the year 1980 and with regard to aforesaid charge-sheet against the petitioner, there was no punishment order passed against the petitioner at the time of his retirement. So far as Annexure P-8 is concerned, the same pertains to M.C, Karnal, wherein one charge-sheet was issued to the petitioner in the year 1987 and Director, Urban Local Bodies, Haryana on 09.09.1996 passed an order by which he observed that the aforesaid charges cannot be now considered at a belated stage because the petitioner has already retired from service and therefore, the show-cause notice which was issued to him at that point of time in the year 1980 was withdrawn and charge-sheet was filed and his suspension order was also treated to be as a duty period. In this way, this enquiry against the petitioner



of the year 1980 in M.C. Karnal also reached a conclusion by an order passed by Director, Urban Local Bodies, Haryana on 11.07.1996 vide Annexure P-8.

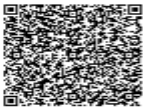
10. The aforesaid three orders which have been passed by the Director, Urban Local Bodies, Haryana after the retirement of the petitioner would clearly show that at the time when the petitioner retired from service, there was no adverse order against the petitioner nor any punishment order has been passed against the petitioner and ultimately the Director, Urban Local Bodies, Haryana held that no action could be taken against the petitioner at all and rather the aforesaid order Annexure P-6 was passed in favour of the petitioner, whereby his suspension order was treated to be a duty period. The question therefore would arise is that at the time when the petitioner retired from Municipal Council, Gurugram, there was no punishment order or any other adverse order against the petitioner. The plea which has been taken by the learned counsel for the respondent-Council even by filing reply was that the aforesaid pendency of the enquiries was the reason for delay in disbursal of the retiral benefits to the petitioner and he himself was Superintendent of M.C, Gurugram and it was his duty to have provided all the relevant record. However, the aforesaid argument raised by the learned counsel for respondent-Council while relying upon the reply filed on behalf of respondent-Council is not sustainable in view of the fact that it is not the duty of an employee who retires from service or who is about to retire from service but it is the duty of the Institution where he is serving to collect all the record and to deal with the same. Even otherwise also in the facts and circumstances of the present case, the aforesaid enquiries were long back of the year 1965 and 1980 and there was no



logical conclusion of the aforesaid enquiries or even the charge-sheets and the same have been dropped after the retirement of the petitioner in the year 1996 by the aforesaid orders Annexure P-6, Annexure P-7 and Annexure P-8 and therefore, clearly the petitioner was not at fault at all under any circumstance and it was the duty of the M.C, Gurugram to have considered all the aspects.

11. Not only this, even the Director, Urban Local Bodies, Haryana vide Annexure P-19 has directed the aforesaid M.C, Gurugram and Sonapat to pay the interest to the petitioner on the delayed payment of his retiral benefits. Learned counsel for the respondent-Council has stated that since the Director, Urban Local Bodies, Haryana had directed the M.C, Gurugram and Sonapat to pay interest on the delayed payment of retiral benefits to the petitioner as per Rules, the interest, if at all, has to be proportionally divided between Municipal Committees of Gurugram and Sonapat and full liability cannot be fixed upon M.C, Gurugram, if at all, it is liable to pay the interest.

12. In view of the aforesaid facts and circumstances of the present case and after considering the submissions made by the learned counsels for the parties, the present writ petition is disposed of with a direction to Director, Urban Local Bodies, Haryana to consider the entire issue with regard to grant of interest, which is to be paid to the petitioner because this Court is of the considered view that the petitioner is entitled to interest @ 6% per annum (simple) from the date of his retirement plus two months till the date of its actual disbursement. It is only for the purpose of proportional distribution, if any, between the Municipal Councils, if any, the Director, Urban Local Bodies, Haryana is directed to take a decision and thereafter, convey the same to Municipal Council of Gurugram and Sonapat or any



other Municipal Council which he thinks proper. On conveying of the aforesaid decision, it is directed that all the Municipal Councils to whom direction is issued by the Director, Urban Local Bodies, Haryana will pay the interest to the petitioner on the delayed payment of his retiral benefits @ 6% per annum (simple) according to their share so fixed by the Director, Urban Local Bodies, Haryana, within a period of three months thereafter.

20.09.2024

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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