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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17843-2021(O&M)
Date of decision: 29.04.2024

Rajinder Kumar

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Parminder Singh, Advocate, for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Gaurav Jindal, Advocate, for respondent No.4.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing/setting aside the order dated 05.08.2021 (Annexure P-7) whereby the claim of the petitioner for release of retiral/pensionary benefits has been declined by the respondent-Committee.

2. Learned counsel for the petitioner has submitted that the petitioner was appointed as a Sweeper in the year 1995 and thereafter his services were regularised on 24.12.1997. Thereafter a show-cause notice was issued to him for termination of his services dated 28.02.2000. The petitioner alongwith some

other similarly situated persons filed a writ petition before this Court in CWP No.3363 of 2000 in which notice of motion was issued on 27.03.2000 and it was directed that in the meanwhile termination of the services of the petitioners shall remain stayed. The aforesaid order was passed by a Division Bench of this Court which has been reproduced in para No.4 of the petition. Learned counsel submitted that after the aforesaid writ petition was admitted and the termination was stayed, the petitioner attained the age of superannuation on 31.03.2021 and he retired. He submitted that thereafter more than 3 years have elapsed that the gratuity and other retiral benefits have not been paid to the petitioner and in this regard, he submitted that the petitioner had filed a writ petition before this Court bearing CWP No.11492 of 2021 wherein a direction was issued by a Co-ordinate Bench of this Court vide Annexure P-5 on 01.07.2021 to decide the representation of the petitioner. In pursuance of the aforesaid order passed by a Co-ordinate Bench of this Court, the respondents passed the impugned order dated 05.08.2021 (Annexure P-7) whereby it has been so stated that the petitioner had filed a writ petition wherein the termination of the services of the petitioner was stayed and the writ petition is pending and in view of the aforesaid position, the Committee is not able to take up any suitable action regarding release of dues of the official till the final decision of CWP No.3363 of 2000. He submitted that the aforesaid writ petition is already admitted and is pending but that itself cannot become a ground for non-release of retiral/pensionary benefits of the petitioner and especially in view of the fact that he discharged his duties till the time of his attaining the age of superannuation and retired.

3. On the other hand, Mr. Gaurav Jindal, learned counsel appearing on behalf of the respondent-Committee submitted that as per the impugned order (Annexure P-7), the only reason as to why the retiral benefits have not been released to the petitioner is due to the pendency of the writ petition No.3363 of 2000 wherein the termination of the services of the petitioner was stayed.

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

5. The petitioner retired as a Sweeper on 31.03.2021 which is more than 3 years ago. The only ground as to why the retiral benefits of the petitioner have been withheld is that earlier when a show-cause was issued to the petitioner and some other similarly situated person for termination, they had filed a writ petition before this Court and a Division Bench of this Court had stayed the termination and in this way, the petitioner had been continuing his service till his attaining the age of superannuation. The only reason for withholding was the aforesaid reason only which is so reflected in impugned order (Annexure P-7) and also in view of the submissions made by the learned counsel for the respondent-Committee. This Court is of the considered view that such kind of approach of the respondent-Committee is unwarranted and is not in accordance in law. If a petition was admitted by a Division Bench of this Court wherein the termination was stayed is still pending, then that would not mean that the retiral benefits of the petitioner would be not given to the petitioner for a long period of time only because of the pendency of the writ petition and especially in view of the fact that the petitioner had discharged his duties till the date of his retirement. At the most the respondent-Committee would have sought an affidavit/undertaking from the petitioner that in case

any adverse order is passed against the petitioner in the aforesaid writ petition, then he may refund the same but a poor person cannot be deprived of his pensionary benefits only because of the aforesaid reason.

6. In view of the above, the present petition is allowed. The impugned order dated 05.08.2021 (Annexure P-7) is hereby set aside. The respondents are directed to release the aforesaid amount of all the retiral benefits to the petitioner within a period of three months from today alongwith interest @ 6 % per annum (simple).

29.04.2024
rakesh

(JASGURPREET SINGH PURI)
JUDGE

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