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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25992-2019
Date of decision: 05.04.2024

MANGE RAM

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Jasmer Singh Rozera, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Vishal Garg, Advocate
for respondents No.2 to 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 *mandamus* directing respondents No.3 and 4 to release the pension to the petitioner as per 7th Pay Commission (Annexure P-6), which is not released to him till today inspite of the fact that the petitioner retired on 31.01.2018 along with all consequential benefits with interest @ 18% per annum and with a further prayer to direct the respondents to grant all the annual increments from 31.07.2016 to 31.01.2018 to the petitioner, which was not granted to him on account of the order dated 04.08.2016 (Annexure P-5), whereby one annual increment of the petitioner had been stopped without cumulative effect and the effect of the said

punishment had ended on 01.07.2017 and inspite of that, same has not been granted to him.

2. Learned counsel for the petitioner submitted that the petitioner retired on 31.01.2018 from the respondent-Corporation and he is aggrieved on three issues.

(i) Firstly, the benefit of 7th Pay Commission with effect from 01.01.2016 has not been given to him.

(ii) Secondly, the ceiling of gratuity as applicable to the petitioner was Rs.20,00,000/- and not Rs.10,00,000/- and he has been granted gratuity amounting to only Rs.10,00,000/-.

(iii) Thirdly, before the retirement of the petitioner, he has not been given the benefit of increment and the increment which was stopped without cumulative effect, the effect of the same had to be extinguished on the expiry of one year and at the time of retirement, his retiral benefits were to be calculated by ignoring the aforesaid effect.

3. On the other hand, learned counsel for respondents No.2 to 4 has filed additional affidavit of General Manager, Haryana Tourism Corporation in the Court today and the same is taken on record. In the said additional affidavit, it has been stated that the earlier reply, which was filed by the Chief Accounts Officer was filed inadvertently because the Chief Accounts Officer could not have filed the reply and for which an unconditional apology is prayed for. He further submitted that in pursuance of the earlier orders passed by this Court, Mr. Shailendra Singh, Chief Accounts Officer is also present in the Court today.

4. The prayer made by the learned counsel for respondents No.2 to 4 for accepting unconditional apology of respondents No.2 to 4 is accepted. He submitted that in future, the replies will be filed only by the officers who are competent to file the same before this Court.

5. Learned counsel for respondents No.2 to 4 also submitted on merits that all the grievances of the petitioner have already been redressed and he has already been paid all the amounts on time. In this regard, he referred to the aforesaid additional affidavit, which has been filed in the Court today and submitted that the benefit of 7th Pay Commission has already been granted to the petitioner and all the arrears etc. have already been paid and even the retiral benefits were fixed on the basis of re-fixation of the last pay drawn. He further submitted that so far as the ceiling on the gratuity is concerned, the notification under the Payment of Gratuity (Amendment) Act, 2008 was made applicable with effect from 29.03.2018, wherein the ceiling was enhanced to Rs.20,00,000/- but the petitioner retired on 31.01.2018 and therefore, he will be governed by the earlier ceiling of Rs.10,00,000/- and therefore, the petitioner should not have any grievance in this regard. He further submitted that so far as the third grievance of the petitioner that at the time of his retirement, the retiral benefits were not counted by extinguishing the effect of the stoppage of one increment without cumulative effect is concerned, in case the petitioner has any grievance with regard to the same, the petitioner can file a detailed representation with regard to the same and a speaking order will be passed in this regard by respondent No.2-Managing Director, Haryana Tourism Corporation Limited, Chandigarh after hearing the petitioner.

6. At this stage, learned counsel for the petitioner submitted that in view of the aforesaid additional affidavit which has been filed by learned counsel for respondents No.2 to 4 in Court today, all the grievances of the petitioner stand redressed except for one grievance with regard to non-extinguishing the effect of stoppage of one increment without cumulative effect at the time of calculating the retiral benefits. He further submitted that the petitioner will file a detailed representation to the respondent-Corporation within a period of two months from today and a time frame work may be fixed and respondent No.2-Managing Director, Haryana Toursim Corporation Limited, Chandigarh may be directed to pass a speaking order after hearing the petitioner.

7. In view of the aforesaid facts and circumstances, the present writ petition is disposed of. In the event of the petitioner filing any representation to the respondent No.2-Managing Director, Haryana Toursim Corporation Limited, Chandigarh with regard to his grievance pertaining to the grant of increment and its effect on the retiral benefits is concerned, respondent No.2 is directed to pass a speaking order on the same after hearing the petitioner or his counsel, within a period of two months thereafter. In case the petitioner is found to be entitled to any amount, then the same shall be released to him, along with interest @ 6% per annun, within a period of two months thereafter.

05.04.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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