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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8755-2018

Date of decision: 01.08.2024

HARISH CHANDER

...Petitioner

VERSUS

UHBVN AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. R. K. Chaudhary, Advocate for the petitioner.

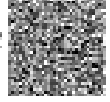
Mr. Udit Garg, Advocate for the respondents.

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 the order dated 04.04.2016 (Annexure P-2) to the extent of withholding of an amount of Rs.47,719/- without any notice, charge-sheet or holding the petitioner responsible in the enquiry with a further prayer to direct the respondents to grant interest @12% per annum to the petitioner on delayed payment of pension, pension arrears, DCRG, commutation etc. as the amount of Rs.9,14,745/- has been delayed by 12 months from the date of retirement and also to grant 2nd ACP of Rs.3,600/- to the petitioner in view of Rule 13 of the ACP Rules (Annexure P-10) read with modified ACP dated 04.03.2014 (Annexure P-11).

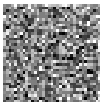
2. On facts, both the learned counsels for the parties are *ad idem*.

They have submitted that there has been a delay of about 1 year in disbursal of



the retiral benefits to the petitioner and also an amount of Rs.47,719/- has been withheld from his retiral benefits and recovered because of two reasons. Firstly, that there was one punishment order prior to the retirement of the petitioner, in which one annual increment was stopped and the same was not recovered at the time when the petitioner was in service but the order with regard to recovery has been passed after the retirement of the petitioner and secondly, that an amount of approximately Rs.36,000/- was paid to the petitioner while he was in service, which was an excess amount on account of increment but the same was recovered after his retirement.

3. So far as the aforesaid amount of Rs.47,719/- which has been recovered from the pensionary benefits of the petitioner is concerned, if any amount was erroneously paid to the petitioner while he was in service and ultimately he retired on 31.05.2015, then the same could not have been recovered from the petitioner in view of the judgment passed by Hon'ble Supreme Court in **State of Punjab and others versus Rafiq Masih (White Washer) and others, 2015 (4) SCC 334** especially in view of the fact that the petitioner retired as a Lineman from the respondent-Nigam and he falls in the category of Class-III and therefore, as per the concluding paragraph of the aforesaid judgment, he falls in Clause (i) and (ii) because he has not only retired as Class-III employee but he has actually retired on attaining the age of superannuation. Therefore, the aforesaid amount of approximately Rs.36,000/- could not have been recovered from the petitioner and the prayer of the petitioner is squarely covered by the aforesaid judgment of the Hon'ble Supreme Court.



4. So far as the remaining amount out of the aforesaid Rs.47,719/- is concerned, the same was pertaining to the show cause notice although issued prior to the retirement of the petitioner but the punishment order was passed after his retirement. The same also could not have been done by the respondent-Nigam in the absence of any Rules to show that the respondent-Nigam was competent to issue any charge-sheet etc. against the petitioner or to hold any disciplinary action because the master and servant relationship ceased to exist. Therefore, so far as the aforesaid amount is concerned, respondent-Nigam could not have recovered the aforesaid amount from the pensionary benefits of the petitioner and the same is liable to be refunded to the petitioner. So far as the interest aspect is concerned, admittedly the remaining pensionary benefits have been paid to the petitioner after a delay of about 1 year, for which there is no justifiable reason coming forth from the respondent-Nigam.

5. In view of the aforesaid facts and circumstances, the present writ petition is allowed. The respondent-Nigam is directed to refund the aforesaid amount of Rs.47,719/-, which has been recovered from the pensionary benefits of the petitioner, along with interest @ 6% per annum (simple). The petitioner shall also be entitled for interest on the delayed payment of about 1 year from the date after two months of his retirement till the date of its actual disbursement @ 6% per annum (simple). The entire amount shall be paid to the petitioner within a period of four months from today.

(JASGURPREET SINGH PURI)
JUDGE

01.08.2024
Chetan Thakur

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