IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

226 **CWP-92-2020 (O&M)**
Date of Decision:14.05.2024

Kamlesh Kumari

......Petitioner

versus

Uttar Haryana Bijli Vitran Nigam Limited and others

......Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. N.S. Behgal, Advocate for the petitioner.

Mr. Sudeep Mahajan, Advocate and
Ms. Saachi Mahajan, Advocate for the respondents.

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JASGURPREET SINGH PURI J.(Oral)

1. The present 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 of recovery sheet (Annexure P-17) vide which recovery of an amount of Rs.3,62,419/- on account of missing parts regarding which the charge-sheet No.86/EPF-6932 dated 30.08.2014 (Annexure P-7) was issued to the deceased husband of the petitioner with a further prayer to release the abovesaid recovered amount of Rs.3,62,419/- alongwith interest @18% per annum.

2. Brief facts of the present case are that the husband of the petitioner namely Karan Pal was working as Junior Engineer in the department of respondent-Uttar Haryana Bijli Vitran Nigam Limited (hereinafter to be referred to as 'Nigam') and while he was serving in Nigam, he was awarded two punishments for stoppage of increments regarding which there is no dispute in the present case. Thereafter, he took voluntary

retirement and an office order dated 30.12.2010 was passed in this regard vide Annexure P-1. After the retirement, he was not granted the retiral benefit and even his pension was fixed on provisional basis to the extent of 100% on 01.09.2011 after a delay of about 09 months.

3. After the retirement of husband of the petitioner, he was issued a charge-sheet dated 12.04.2012 and to which he had filed a reply and on the basis of the aforesaid reply, the charge-sheet was dropped on 09.01.2014 vide Annexure P-3. The aforesaid order dated 09.01.2014 dropping of the charge-sheet is reproduced as under:-

"*Office Order No.20/EPF-6932* *Dated 9.1.14*

"A charge sheet No.45/EPF-6932 dated 12.4.12 issued to Sh. Karan Pal Singh, JE while he is posted as JE in the office of SDO/OP S/D, UHBVN, Garhi Birbal. The official has submitted his reference reply which was considered by the competent authority with reference to the fact/ material on record and it is decided to drop the charge sheet.

Accordingly charge sheet No.45-EPF-932 dated 12.4.12 issued to Sh. Karan Pal Singh is hereby dropped.

This issue with the approval of Chief Engineer/ Operation, UHBVN, Panchkula.

Sd/-
Administrative Officer,
For CE/OP, UHBVN, Panchkula

4. Thereafter, another order was passed on 03.02.2014 vide Annexure P-4 which was also after the retirement of husband of the petitioner, in which one earlier show cause notice was issued on 26.06.2009 and that was also dropped on the basis of the facts and material available on the record, comments of the XEN and on the basis of the reply of the husband of the petitioner. This was only a show cause notice and not a

charge-sheet. The aforesaid order dated 03.02.2014 (Annexure P-4) is reproduced as under:-

> *"Office Order No.26/T Dated 03 FEB 2014*
>
> *Having considered the reply submitted by Sh. Karan Pal, JE (now Voluntarily retired) to the show cause notice No.CH.63/EP-14052 dated 26.6.2009 with reference to the facts/ material available on record and comments of XEN, 'OP' S/U No.1, UHBVNL, Karnal on the reply of the official, it has been decided to drop the ibid show cause notice.*
>
> *Accordingly, show cause notice No.Ch.63/EP-14052 dated 26.9.2009 issued to Sh. Karan Pal, JE (Now voluntarily retired) is hereby dropped.*
>
> *sd/-*
> *SE, 'OP' Circle*
> *UHBVNL, Karnal"*

5. Thereafter, the husband of the petitioner gave a representation on 05.03.2014 vide Annexure P-5 to the respondent-Nigam for releasing of his leave encashment and other retiral benefits because there was no impediment with the respondent-Nigam to release the retiral benefits.

6. Thereafter, on 17.04.2014 another charge-sheet dated 05.03.2012, was issued against the husband of the petitioner after his retirement and was also withdrawn vide Annexure P-6 on the basis of the reply submitted by the husband of the petitioner and on the facts and material available on record. The aforesaid Annexure P-6 is reproduced as under:-

> *"Office order No.340 Dated 17.4.14*
>
> *A charge sheet No.39/EPF Dated 5.3.12 issued to Sh. Karan Pal Singh, J.E. (Retd.) while he was working in the o/o SDO (Op.) Sub Division, UHBVNL, Garhi Birbal, the official submitted his defence reply which was considered by the complainant authority with reference to the facts/material*

on record and it has been decided the charge sheet be withdrawn.

This issue with the approval of C.E. (Op.) UHBVNL, Panchkula.

Sd/-
Administrative officer,
For Chief Engineer (OP)
UHBVN Panchkula
Camp at Karnal"

7. Things did not stop here. There was another charge-sheet issued to the husband of the petitioner on 30.08.2014 vide Annexure P-7 i.e. much after his retirement on various grounds by referring to Rule 2.2 (b) of Civil Services Rules by alleging that there was some amount outstanding against him. The aforesaid charge-sheet could not further progress and no reply was submitted since the husband of the petitioner died after a few months i.e. 07.11.2014.

8. The petitioner is the widow of aforesaid deceased Karan Pal who was not paid the retiral benefits despite the fact that there was no punishment order or any other order passed by the Punishing Authority and none of the charge-sheets culminated into any order of punishment at any point of time even after the retirement of the husband of the petitioner. The petitioner moved a representation vide Annexure P-8 to the respondent-Nigam on 27.11.2015 by stating that her husband has died on 07.11.2014 and the balance payments are still due and she is suffering from financial crisis and requested the respondent-Nigam that the balance payment may be released to her. The aforesaid (Annexure P-8) is reproduced as under:-

"*To*

The Managing Director,
UHBVN Panchkula

Sub: With regard to the payment of the balance amount.

Sir,

It is respectfully submitted that my name is Kamlesh Kumari wife of late Sh. Karanpal Singh (J.E.) Retd. Garhi Birbal Karnal). My late husband Sh. Karanpal Singh retired 30.12.2010 who expired on 7.11.2014. His balance payments are still due. Regarding this, I Kamlesh Kumarı wife of late Sh. Karanpal Singh is suffering from financial crises. Thus, it is my request to your goodself that considering my hardship, the balance payment may kindly be released. I shall be highly obliged.

Thanking you

Dated 27.11.2015

Sd/-Applicant

Kamlesh Kumari w/o late
Sh.Karanpal Singh /9917334951"

9. Thereafter again on 16.05.2016 vide Annexure P-10 another representation was moved by the petitioner by stating that till date she has received GPF, Leave Encashment and 75% pension and her husband was issued with four charge-sheets out of which two charge-sheets were dropped and one charge sheet was sent to Chief at Panchkula but reply of one charge sheet is pending for reply in the department and it is requested that charge-sheet against the husband of the petitioner may be cleared. She specifically stated that she is helpless and she must be given full pension. The aforesaid representation dated 16.05.2016 (Annexure P-10) is also reproduced as under:-

"To

The Executive Engineer,
Sub Urban Division No.1, Karnal

Sub: With regard to retiral dues of Sh. Karanpal, J.E. (Retd.) 31.12.10 expired on 7.11.14.

Sir,

It is respectfully submitted that I Kamlesh Kumari is widow of Sh. Karanpal. My thousand was posted as J.E. in your office at Garhi Birbal and got retired on 31.12.2010. He expired on 7.11.2014. But till date, the full pension of my husband is not released. Till today, I received GPF, Leave encashment and 75% pension. My husband was issued four charge sheets after his retirement, out of which 2 charge sheets were cleared and one charge sheet was sent to Chief at Panchkula but reply of one charge sheet No.86-EPF-6932 dated 3.8.2014 is pending for reply in the department. It is requested that the charge sheet against my husband be cleared so that I helpless will get full pension and whatever is due, be received.

Dated:16.05.2016 *Sd/-Applicant*
Kamlesh Kumari w/o late
Sh. Karanpal Singh J.E. (Retd.)
and expired 7.11.2014"

10. Thereafter, again she moved a representation on 12.11.2016 vide Annexure P-13 thereby requesting that since she is suffering and outstanding payments are due, action may be taken for the payment of balance amount.

11. Since no action was taken by the respondent-Nigam, the petitioner filed a writ petition before this Court bearing CWP No.2635-2017 which was disposed of by a Coordinate Bench of this Court on 18.07.2019 vide Annexure P-16 wherein learned counsel for respondent-Nigam had stated that in case any representation is received from the petitioner, the same will be decided in accordance with law by passing

appropriate speaking order and in case the petitioner is found entitled to any amount, the same will be released.

12. There is no order on record to show that any order is passed by the respondent-Nigam in pursuance of undertaking given by learned counsel for the respondent-Nigam before this Court in the aforesaid petition. However, some summary of payment which was required to be paid was calculated vide Annexure P-17 in which total amount which was due towards the petitioner has been stated to be Rs.18,95,033/- and it is also mentioned in the chart (Annexure P-17) which was so prepared that there will be recovery of Rs.3,62,419/- and in this way net amount of Rs.15,32,614/- was paid to the petitioner on 18.07.2019 and the aforesaid remaining amount was recovered.

13. Learned counsel for the petitioner during the course of arguments submitted that out of Rs.3,62,419/-, an amount of Rs.3,32,665/- has been paid to the petitioner on 28.10.2020 and an amount of Rs.29,754/- was with-held on account of stoppage of 2 AGI.

14. The claim of the petitioner is with regard to interest on delayed payments of the aforesaid amount which were released on different dates and also on the ground that there was no justification for the respondent-Nigam to have with-held the retiral benefits of husband of the petitioner when he was alive and also after his death delay has been caused in disbursement of outstanding payments to the petitioner being a widow without any justification or authority of law. Learned counsel for the petitioner referred to a Full Bench judgment of this Court in ***A.S. Randhawa vs. State of Punjab 1997 (3) SCT 468*** to contend that the

retiral benefits are not bounty of the State and interest is payable when the delay is without any justification.

15. On the other hand, learned counsel appearing on behalf of respondent-Nigam submitted that the allegations against the husband of the petitioner were pertaining to financial irregularities and therefore it was within the rights of the respondent-Nigam to have with-held the retiral benefits so that in case the charge-sheet is to be culminated at any point by passing of any order and in order to secure the revenue of the respondent-Nigam, the retiral benefits were required to be with-held and that was the reason as to why the retiral benefits were not paid to the husband of the petitioner. He further submitted that some of the charge-sheets were issued although after the retirement of the husband of the petitioner but they were pertaining to an event which was within 04 years preceding of the show cause notice or the charge-sheet and therefore as per Rule 2.2 (b) of the Punjab Civil Services Rules as applicable to State of Haryana, the same could have been done and charge-sheet could have been issued. He also submitted that since the entire benefits have been paid to the petitioner, the present petition has become infructuous.

16. I have heard learned counsels for the parties.

17. It is a case where a widow has knocked the door of the Court twice. Earlier the petitioner filed a petition before this Court and vide Annexure P-16, the learned counsel for the respondent-Nigam had fairly stated that a speaking order would be passed but there is nothing on record to show that any order has been passed. Be that as it may some calculation sheets have been annexed as Annexure P-17 to show that after the orders were passed by a Coordinate Bench of this Court vide

Annexure P-16, dated 18.07.2019 the total amount which was paid to the petitioner has been shown to be Rs.18,95,033/- and out of which about Rs.3,62,419/- has been shown to be recoverable and remaining amount of Rs.15,35,614/- has been paid to the petitioner. In this way, although some of the amounts have been paid to the petitioner but the claim of the petitioner is for grant of interest on the delayed payments because the same have been made without any justification.

18. The facts and circumstances of the present case suggest that when the husband of the petitioner who was working as Junior Engineer in the respondent-Nigam had voluntarily retired on 31.12.2010, then there was no charge-sheet or enquiry pending against the husband of the petitioner except for one show cause notice which had been later on dropped. Four times charge-sheets were issued against the husband of the petitioner after his retirement and out of the aforesaid four charge-sheets, three were dropped or withdrawn on the basis of the reply filed by the petitioner, material available on the record and comments of the concerned officer and therefore, it is clear that charge-sheets were dropped on merits and not because of any other reason and the same were dropped by the respondent-Nigam themselves. So far as the fourth charge-sheet (Annexure P-7) is concerned, husband of the petitioner died after a few months on 07.11.2014 and as per learned counsel for the parties that charge-sheet was also dropped due to the death of husband of the petitioner. In this way, all the charge-sheets issued after retirement of husband of the petitioner, were dropped either on merits or because of the death of the husband of the petitioner. In other words, none of the charge-sheets culminated into any order of punishment etc.

19. The first aspect which is to be considered in this case as to whether the respondent-Nigam was within its right to have issued charge-sheets after the death of husband of the petitioner. It is a settled law that after retirement, the employer-employee relationship ceases to exist. An action can be taken against a retired employee only when there is a provision of law and the same can be done only with the authority of law. The learned counsel for respondent-Nigam has referred to Rule 2.2 (b) Volume 2 of Punjab Civil Services Rules as applicable to State of Haryana (hereinafter to be referred to as 'Rules') in this regard and stated that even after retirement a charge-sheet can be issued pertaining to an event which is preceding four years of issuance of charge-sheet. The respondent-Nigam is a separate legal entity and there is nothing on record to show that respondent-Nigam has adopted the aforesaid Rules. This issue was also dealt with by a Division Bench of this Court in ***Superintending Engineer DHBVNL & ors. vs. Karam Singh in LPA No.597 of 2011 dated 29.03.2011*** and also by a Single Bench of this Court in ***Ajit Singh vs. Uttar Haryana Bijli Vitran Nigam Ltd.& ors. in CWP No.12171-2010*** wherein it was so observed that no charge-sheet could have been issued against a retired employee because there is no adoption of the Rules by the respondent-Nigam. Similarly, with regard to another sister organization, which is DHBVNL a Division Bench of this Court in ***Ashok Kumar Dhamija Vs. Dakshin Haryana Bijli Vitran Nigam Ltd.and others in CWP No.7949-2020*** and ***Hans Raj Sharma vs. Uttar Haryana Bijli Vitran Nigam Limited and others in CWP No.152-2004*** also laid down the same proposition of law. Therefore, in the absence of any specific provision, the respondent-Nigam did not have any authority of

law to issue charge-sheet against the husband of the petitioner after his retirement. Even otherwise, three charge-sheets were ultimately dropped on the basis of the replies filed by the husband of the petitioner on its own merits and the fourth charge-sheet was dropped because of the death of the husband of the petitioner. Therefore, the delay in releasing retiral benefits was without any justification and dropping of the charge-sheet would have an effect of wrong charge-sheets being issued to the husband of the petitioner.

20. In this way, when the husband of the petitioner died on 07.11.2014, although he was getting provisional pension but he did not get other retiral benefits. After the death of the husband of the petitioner, the petitioner started making various representations to the respondent-Nigam for release of the amount which was due in favour of the husband of the petitioner in the nature of retiral benefits. Repeated representations as aforesaid were made and it was so specifically stated by the petitioner who is a widow that she is suffering a lot and is in financial difficulties and therefore the amount be released to her but the respondent-Nigam which is a big giant and instrumentality of the State did not pay heed to the repeated requests of a widow who was none other than the widow of their own ex-employee. The petitioner, therefore, had to knock at the door of this Court by filing an earlier writ petition and vide Annexure P-16, respondent-Nigam had stated that they will decide the representation in accordance with law by passing a speaking order but there is nothing on the record to show that any order has been passed. Thereafter, when amount was to be paid to the petitioner again a recovery of Rs.3,62,419/- was made for which again there was no justification and at least from the

widow no recovery could have been made because her husband had already died and three charge-sheets were already dropped on merits before the death of her husband and the fourth charge-sheet was also dropped because of the death of husband of the petitioner and it is not understandable as to how such a recovery was made. Thereafter the respondent-Nigam realized its mistake and paid to the petitioner an amount of Rs.3,32,665/- on 28.10.2020. In this way, petitioner has been paid an amount of Rs.15,32,614/- on 18.07.2019 and Rs.3,32,665/-on 28.10.2020.

21. The petitioner is a widow who has suffered for more than 06 years at the mercy of the respondent-Nigam. This Court is of a considered view that there is no justification at all, whatsoever, for delaying in releasing retiral benefits firstly to the husband of the petitioner and thereafter to the petitioner who is a widow. This Court is also of a considered view that the respondent-Nigam has acted in a very insensitive and inhuman manner besides being contrary to the statutory rules, settled law and also contrary to Article 300-A of the Constitution of India which provides that nobody can be deprived of Right to Property without the authority of law. It is a settled law that retiral benefits are a part of Right to Property as envisaged under Article 300-A of the Constitution of India.

22. The law with regard to the right to receive pension and pensionary benefits is no longer res-integra. Pension and pensionary benefits are not bounty of the State and the State does not do any charity by giving pension and pensionary benefits. Right of receiving pension and pensionary benefits is rather a Right to Property which is a Constitutional Right under Article 300-A of the Constitution of India and

a person can only be deprived of his Right to Property with an authority of law whereas in the present case the deprivation has been done without the authority of law. Way back in the year 1971, a Constitution Bench of Hon'ble Supreme Court in ***"Deokinandan Prasad Vs. State of Bihar", 1971(2) SCC 330***, held that pension is not a bounty of the State and is rather a Fundamental Right under Article 31(1) of the Constitution of India. However, later on by virtue of 44th Amendment of the Constitution of India, Right to Property became a Constitutional Right under Article 300-A of the Constitution of India instead of a Fundamental Right. The relevant portion of the aforesaid judgment is reproduced as under:-

> *"31. The matter again came up before a Full Bench of the Punjab and Haryana High Court in **K.R. Erry v. The State of Punjab, ILR 1967 Punj & Har 278**. The High Court had to consider the nature of the right of an officer to get pension. The majority quoted with approval the principles laid down in the two earlier decisions of the same High Court, referred to above, and held that the pension is not to be treated as a bounty payable on the sweet-will and pleasure of the Government and the right to superannuation pension including its amount is a valuable right vesting in a Government servant. It was further held by the majority that even though an opportunity had already been afforded to the officer on an earlier occasion for showing cause against the imposition of penalty for lapse or misconduct on his part and he has been found guilty, nevertheless, when a cut is sought to be imposed in the quantum of pension payable to an officer on the basis of misconduct already proved against him, a further opportunity to show cause in that regard must be given to the officer. This view regarding the giving of further opportunity was expressed by the learned Judges on the basis of the relevant Punjab Civil Service Rules. But the*

learned Chief Justice in his dissenting judgment was not prepared to agree with the majority that under such circumstances a further opportunity should be given to an officer when a reduction in the amount of pension payable is made by the State. It is not necessary for us in the case on hand, to consider the question whether before taking action by way of reducing or denying the pension on the basis of disciplinary action already taken, a further notice to show cause should be given to an officer. That question does not arise for consideration before us. Nor are we concerned with the further question regarding the procedure, if any, to be adopted by the authorities before reducing or withholding the pension for the first time after the retirement of an officer. Hence we express no opinion regarding the views expressed by the majority and the minority Judges in the above Punjab High Court decision, on this aspect. But we agree with the view of the majority when it has approved its earlier decision that pension is not a bounty payable on the sweet-will and pleasure of the Government and that, on the other hand, the right to pension is a valuable right vesting in a government servant.

32. This Court in ***State of Madhya Pradesh v. Ranojirao Shinde and another, AIR 1968 SC 1053*** *had to consider the question whether a "cash grant" is "property" within the meaning of that expression in Articles 19(1)(f) and 31(1) of the Constitution. This Court held that it was property, observing "it is obvious that a right to sum of money is property".*

23. A Full Bench of this Court in ***"Dr. Ishar Singh Vs. State of Punjab and another" 1993(3) PLR 499,*** also discussed the entire issue with regard to right to withhold the pension and permissibility to withhold the commutation of pension etc. was also discussed in detail wherein it was observed that the entire pension has to be paid and it cannot be

withheld without any authority of law. The relevant portion is reproduced as under:-

> "81. *As a result of the above discussion, I would conclude as under:-*
>
> *(i) The Government has no right to withhold or postpone pension or the payment on account of commutation of pension. The State is bound to release 100 per cent pension at the time of superannuation, may be provisionally.*
>
> *(ii) The Government can withhold the gratuity or other retiral benefits except pension or postpone payment of the same during pendency of an enquiry.*
>
> *(iii) Pension cannot be adversely affected before a finding of guilt is returned.*
>
> *(iv) The Government can initiate Departmental enquiry after long lapse before retirement, rather there is no limitation for initiating the departmental enquiry from the date of incident before retirement. The delay and the explanation for the same may reasonably be taken note of keeping in view its likelihood to cause prejudice to the delinquent if the enquiry is challenged in appropriate proceedings.*
>
> *(v) The enquiry proceedings cannot be quashed solely on the ground of long pendency.*
>
> *(vi) There is no effect of superannuation on the pendency of the enquiry proceedings.*
>
> *(vii) The recovery of the Government dues can be made from gratuity or other retiral benefits only."*

24. Thereafter, Hon'ble Supreme Court in another authoritative judgment passed in ***"State of Jharkhand and others Vs. Jitendra Kumar Srivastava and another", 2013(12) SCC 210*** again discussed the entire law pertaining to the valuable rights pertaining to the grant of pensionary benefits. Paras Nos. 8 and 16 of the aforesaid judgment are reproduced as under:-

"8. It is an accepted position that gratuity and pension are not the bounties. An employee earns these benefits by dint of his long, continuous, faithful and unblemished service. Conceptually it is so lucidly described in D.S. Nakara and Ors. Vs. Union of India; (1983) 1 SCC 305 by Justice D.A. Desai, who spoke for the Bench, in his inimitable style, in the following words:

> *"18. The approach of the respondents raises a vital and none too easy of answer, question as to why pension is paid. And why was it required to be liberalised? Is the employer, which expression will include even the State, bound to pay pension? Is there any obligation on the employer to provide for the erstwhile employee even after the contract of employment has come to an end and the employee has ceased to render service?*
>
> *19. What is a pension? What are the goals of pension? What public interest or purpose, if any, it seeks to serve? If it does seek to serve some public purpose, is it thwarted by such artificial division of retirement pre and post a certain date? We need seek answer to these and incidental questions so as to render just justice between parties to this petition.*
>
> *20. The antiquated notion of pension being a bounty a gratuitous payment depending upon the sweet will or grace of the employer not claimable as a right and, therefore, no right to pension can be enforced through Court has been swept under the carpet by the decision of the Constitution Bench in* ***Deoki Nandan Prasad v. State of Bihar and Ors. [1971] Su. S.C.R. 634*** *wherein this Court authoritatively ruled that pension is a right and the payment of it does not depend upon the discretion of the Government but is governed by the rules and a Government servant coming within those rules is entitled to claim pension.*

It was further held that the grant of pension does not depend upon any one's discretion. It is only for the purpose of quantifying the amount having regard to service and other allied maters that it may be necessary for the authority to pass an order to that effect but the right to receive pension flows to the officer not because of any such order but by virtue of the rules. This view was reaffirmed in ***State of Punjab and Another Vs. Iqbal Singh(6)"****.*

It is thus hard earned benefit which accrues to an employee and is in the nature of "property". This right to property cannot be taken away without the due process of law as per the provisions of Article 300-A of the Constitution of India.

16. The fact remains that there is an imprimatur to the legal principle that the right to receive pension is recognized as a right in "property". Article 300-A of the Constitution of India reads as under:

"300-A Persons not to be deprived of property save by authority of law.- *No person shall be deprived of his property save by authority of law."*

Once we proceed on that premise, the answer to the question posed by us in the beginning of this judgment becomes too obvious. A person cannot be deprived of this pension without the authority of law, which is the Constitutional mandate enshrined in Article 300-A of the Constitution. It follows that attempt of the appellant to take away a part of pension or gratuity or even leave encashment without any statutory provision and under the umbrage of administrative instruction cannot be countenanced."

25. The Hon'ble Supreme Court in "***Tukaram Kana Joshi and others through Power of Attorney Holder Vs. M.I.D.C. and others", 2013(1) SCC 353***, observed that Right to Property is now considered to be

not only a Constitutional or a Statutory Right but also a human right. Para 9 of the aforesaid judgment is reproduced as under:-

> "*9. The right to property is now considered to be not only a constitutional or a statutory right but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment etc. Now however, human rights are gaining an even greater multi faceted dimension. The right to property is considered very much to be a part of such new dimension.* ***(Vide: Lachhman Dass v. Jagat Ram, (2007) 10 SCC 448; Amarjit Singh v. State of Punjab, (2010)10 SCC 43; (2010)4 SCC (Civ) 29, State of Madhya Pradesh v. Narmada Bachao Andolan, (2011)7 SCC 639, State of Haryana v. Mukesh Kumar, (2011)10 SCC 404 and Delhi Airtech Services (P) Ltd. v. State of U.P., (2011)9 SCC 354."***

26. In view of the aforesaid facts and circumstances of the present case wherein it is clear that the retiral benefits of the husband of the petitioner at the first instance and from the petitioner who is his widow has been with-held by the respondent-Nigam without any authority of law and by way of an insensitive attitude. The present petition is therefore, partly allowed. The respondents are directed to refund the with-held amount of Rs.29,754/- to the petitioner alongwith interest @6% per annum (simple). The respondents are also directed to pay interest to the petitioner @6% per annum (simple) on the entire amount which accrued to the husband of the petitioner i.e. from the date of the voluntary retirement of the husband of the petitioner plus two months and thereafter to the petitioner till the date of disbursement to the petitioner within a period of four months from today. In case the aforesaid interest amount is

not paid within a period of four months from today then the petitioner shall be entitled for future rate of interest @9% per annum (simple).

27. Considering the aforesaid facts and circumstances of the present case, this Court is of the view that the respondent-Nigam who is not only a big giant but is also an instrumentality of the State has acted not only without the authority of law but has acted in an inhuman and insensitive manner especially qua a widow who after the death of her husband for more than 06 years could not get the retiral benefits despite repeatedly requesting the Nigam by way of repeated representations that she is having financial difficulties and she is suffering a lot but the respondent-Nigam did not pay any heed to her request and there was no legal justification for delaying the retiral benefits. She had to knock at the door to this Court twice and during the pendency of this petition and after the first order that was passed by a Coordinate Bench of this Court, the amount was paid to the petitioner by the respondent-Nigam themselves. Therefore, the petitioner shall also be entitled for costs which are assessed as Rs.2,00,000/- (Rupees two lacs only) which shall be paid by the respondent-Nigam within a period of four months from today.

(JASGURPREET SINGH PURI)
JUDGE

14.05.2024
shweta

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