
(2013) 11 P&H CK 0147
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4074 of 2012

Inder Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 27-11-2013

Acts Referred:

Citation : (2013) 11 P&H CK 0147

Hon'ble Judges : M.M.S. Bedi, J

Bench : Single Bench

Advocate : G.K. Chawla, for the Appellant; S.S. Goripuria, DAG, Haryana and Mr. Deepak Balyan, Advocate, for the Respondent

Final Decision : Allowed

Judgement

M.M.S. Bedi, J.—Petitioner has filed this writ petition for issuance of a writ in the nature of mandamus directing the respondents No. 1 and 2 to sanction and make payment of retiral benefits besides regularising his suspension period. The petitioner has sought issuance of directions that the payment of retiral benefits should be made with interest on account of the fact that despite he having retired on 31.01.2009 during suspension period neither provisional pension has been released nor gratuity and leave encashment has been calculated and paid to the petitioner. It is an admitted fact that the petitioner was under suspension on the date of his retirement. The Inquiry Officer had submitted his inquiry report on 10.02.2010 after the petitioner had retired. It appears that on the basis of inquiry report, the Financial Commissioner and Principal Secretary to the Govt. of Haryana, vide order dated 03.09.2010 has issued a show cause notice to the petitioner whereby penalty of one per cent cut in the gross pension besides not treating the suspension period as duty period should be imposed upon the petitioner, had been proposed. No decision has been taken regarding the imposition of any penalty despite the fact that the petitioner has already filed reply to the show cause notice vide Annexure P-4.

2. After hearing counsel for the petitioner as well as counsel for the respondent

and going through the relevant record, it transpires that vide order dated 03.10.2012 (Annexure R-2), the Govt. has decided to sanction provisional pension to the petitioner and ordered the Director, Urban Local Bodies, Haryana, Chandigarh to send the pension case of the petitioner within a period of 5 days.

3. It is not out of place to observe here that Govt. has also decided to withdraw show cause notice issued to the petitioner, as per order dated 28.04.2011 (Annexure R-4) passed by the Financial Commissioner and Principal Secretary to Govt. of Haryana Urban Local Bodies Department.

4. So far as the Municipal Committee, Meham is concerned, in the written statement a list of seven disciplinary proceedings has been given which were stated to be pending at the time of retirement of the petitioner. Relying upon Rule 9.15(1)(c) and Rule 11.1(c) of C.S.R. Vol. II, it has been stated that the gratuity and commutation pension have been withheld. Rule 9.15(1)(c) provides that no gratuity shall be paid to the Govt. employee until the conclusion of the departmental or judicial proceedings. As per proviso to Rule 11.1(I), a Govt. employee against whom departmental proceedings are pending as per Rule 2.2(b) of Punjab Civil Services Rules Vol. II shall not be permitted to commute any part of his pension during the pendency of such proceedings.

5. Counsel for the respondents has not been able to point out whether any departmental proceeding under Rule 2.2(b) is pending against the petitioner. In view of the above circumstances withholding of the pension of the petitioner is not justified. It has been informed that the service book of the petitioner has been found to be incomplete and that he was instructed to get a copy of the complete service book.

6. Without expression of any opinion regarding irregularity or lacunae in the service book, this petition deserves to be allowed. A direction is issued to the respondents to complete all the formalities with the assistance of the petitioner to complete the service book and release provisional pension to the petitioner and other retiral benefits within a period of two months after the date of receipt of a certified copy of this order.

7. It is made clear that in case on the basis of any inquiry under Rule 2.2(b) of Punjab Civil Services Rules Vol. II any order has been passed for recovery of some amount, the release of the pension will be subject to any such order without prejudice to the right of the petitioner to challenge the same in accordance with procedure of law. This petition is allowed in the above terms.