

(2013) 10 P&H CK 0400

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 632 of 1993 (O and M)

Nottan Dass

APPELLANT

Vs

The Municipal Committee

RESPONDENT

Date of Decision : 03-10-2013

Acts Referred:

Citation : (2014) 174 PLR 38

Hon'ble Judges : Rameshwar Singh Malik, J

Bench : Single Bench

Judgement

Rameshwar Singh Malik, J.—Feeling aggrieved against the alleged inaction on the part of respondent-Municipal Committee, the petitioner has approached this Court, by way of present writ petition seeking a writ in the nature of Mandamus, directing the respondent to calculate the monthly pension of the petitioner and release the arrears of pension along with interest. Petitioner claims to have rendered 36 years of service and thereafter was retired on 31.10.1988 at the age of 58 years. However, pleaded case of the petitioner is that, despite making repeated requests with the respondent-Municipal Committee for paying him the monthly pension from the date of his retirement, no action thereon was taken thereby compelling the petitioner to approach this Court.

2. Notice of motion was issued and in response thereto written statement was filed. Writ petition was admitted for regular hearing vide order dated 12.02.1993 passed by Division Bench of this Court.

3. On 22.02.2013, when this case was taken up for regular hearing, learned counsel for the petitioner sought time to argue the matter and the case was adjourned on his request, directing the office to inform learned counsel for the respondent as well. Office report shows that counsel for the respondent has been informed. However, neither anybody is present on behalf of the (sic) behalf of the respondent.

4. In the written statement filed on behalf of the respondent, the stand taken by

respondent-Municipal Committee, Karnal is that the amount of Contributory Provident Fund, Gratuity and Leave Encashment total amounting to Rs. 82,496.69 paise was disbursed to the petitioner at the time of his retirement. Since the Municipal service was not pensionable at the relevant time, petitioner was not entitled for any pension. It has been stated in the written statement that u/s 257(m) of the Haryana Municipal Act, 1973, the Government of Haryana extended the Pension Scheme to the Municipal employees by framing Municipal Committees, Pension and General Provident Rules, 1993 (in short Tension Rules"). These Rules came into force w.e.f. 16.04.1992, whereas the petitioner had already retired from the Municipal service on 31.10.1988. It is further stated that two similar writ petitions bearing C.W.P. Nos. 9930 and 9931 of 1992, filed before this Court on identical grounds, had already been dismissed by a Division Bench of this Court, vide order dated 06.08.1993. Since the Municipal service was not pensionable during the service period of the petitioner and also on the date of his retirement, the plea raised by the petitioner was misconceived and writ petition was liable to be dismissed.

5. No replication was filed by the petitioner.

6. After careful perusal of record of the case and giving thoughtful consideration to the averments taken by both the parties, this Court is of the considered opinion that the present writ petition is misconceived and the same is liable to be dismissed for more than one following reasons, which are being recorded hereinafter.

7. It is a matter of record that petitioner stood retired on 31.10.1988. At that point of time, the Municipal service was not pensionable. The claim of the petitioner is only for his monthly pension to be released after its calculation from the date of his retirement along with arrears of pension. Once the Municipal service was made pensionable by way of above said Pension Rules of 1993 w.e.f. 16.04.1992, petitioner was not entitled for the pension. Thus the present writ petition is misconceived.

8. The Pension Rules of 1993 were not applicable retrospectively. These were applicable to the Municipal employees who were in regular service on or after 16.04.1992 and were also in service on 16.04.1992. Further condition was that the Municipal employees serving on 16.04.1992 should have opted for these Rules. This is not even the pleaded case of the petitioner for the obvious reason that since he stood retired on 31.10.1988, there was no scope for the petitioner to opt for the Pension Rules, 1993. In this view of the matter, it is unhesitatingly held that the present writ petition is misconceived and liable to be dismissed.

9. Having considered the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant writ petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference is made out. Resultantly, the present writ petition stands dismissed, however, with no order as

to costs.