(2015) 05 P&H CK 0373

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 7775 of 2012 (O&M)

Parkewal Singh Chauhan — APPELLANT

Vs

Punjab Scheduled Castes Land Development and Finance Corporation — RESPONDENT

Date of Decision : 05-05-2015

Acts Referred:

Citation : (2015) 3 SCT 238

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : K.L. Arora, for the Appellant; Bhuwan Luthra, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Jitendra Chauhan, J.

1. The petitioner seeks release of gratuity and leave encashment in terms of Regulations 56 and 76 of The Punjab Scheduled Caste Land Development and Finance Corporation (Staff) Regulations, 1971 (hereinafter called ''1971 Regulations) having been retired from service on 31.08.2011. It is contended that despite the fact that the petitioner retired on 31.08.2011, the gratuity and leave encashment have not been released so far. It is further submitted that no charge-sheet, or inquiry or proceeding is pending against the petitioner.

2. On the other hand, the learned counsel for the respondent Corporation states that the petitioner is responsible for making illegal appointments of peon and driver in the office of respondents. He states that in the year 2010, a preliminary inquiry was conducted in which four persons including the petitioner were found responsible for making illegal appointments mentioned above. However, he submits that the appointing authority is the Executive Director and the petitioner is not the appointing authority.

3. This is an admitted position that no chargesheet till date has been served

upon the petitioner. The only reason cited by the learned counsel for the respondent for not releasing the consequential benefits is the report of the preliminary inquiry allegedly drawn in the year 2010, which has not been acted upon till date for the reasons best known to the Corporation. In fact, the petitioner has no role in appointing any staff on the establishment of the Corporation that being the sole prerogative of the Executive Director.

4. In the circumstances, even the preliminary inquiry initiated against the petitioner appears to be ill-conceived.

5. From the perusal of Annexure P-1, it is clear that the petitioner retired on attaining the age of superannuation. Regulation 23 of 1971 Regulations, reads as under:--

"(I) Regulation 23

Superannuation and Retirement.

(1) An officer of an employee of the Corporation shall retire on attaining the age of 58 years, provided that the appointing authority may, in the interest of the Corporation, sanction from time to time the extension of his employment for a period not exceeding one year at a time, but in no case beyond the age of sixty, provided further that nothing in this sub regulation shall be deemed to effect the power of the Appointing Authority to employ any person above the age of 58 years on contract.

(2) The appointing authority may, at his discretion, retire an officer or an employee of the Corporation on completion of 20 years of service of 50 years of age."

6. A writ petition filed by an identically placed retiree, Darshan Singh Chauhan, stands allowed by this Court vide judgement (Annexure P-7). The LPA and SLP preferred by the Corporation also stand dismissed (Annexures P-8 and P-9). In another case titled as Sucha Ram v. The Punjab Scheduled Castes Land Development and Finance Corporation, rendered in CWP No. 9401 of 2010, decided on 22.09.2011, a similar view has been taken.

7. In view of the fact that the petitioner, till date, has not been served charge-sheet with regard to the alleged appointments of peon and driver in the Corporation and the learned counsel for the Corporation has failed to point out any specific role of the petitioner in the so called illegal appointments, the reasons stated for non-release of the benefits claimed by the petitioner are not acceptable. Accordingly, it is held that the petitioner is entitled to the relief claimed in view of the judgment, Annexures P-7 to P-10, and it is ordered that the gratuity and leave encashment be released to the petitioner, along with interest at the rate of 9% per annum from the date of retirement till its payment, within a period of four months from the date of receipt of a certified copy of this order. The petition is disposed of in the above terms.

