
(2014) 07 P&H CK 0399
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 12742 of 2014

Rajinder Kumar

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 07-07-2014

Acts Referred:

Citation : (2014) 07 P&H CK 0399

Hon'ble Judges : Sabina, J

Bench : Single Bench

Advocate : Hemen Aggarwal, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Sabina, J.—Petitioner has filed this petition challenging the order dated 13.09.2013 (Annexure P-9) passed by the Educational Tribunal, Punjab.

2. Case of the petitioner, in brief, is that he had joined the service of respondent No. 5 in July, 1976. Petitioner retired from service on 31.01.2006 and had not been granted retiral benefits as per revised scale w.e.f. 01.01.2006. Petitioner filed CWP No. 10734 of 2006 and the same was disposed of vide order dated 18.07.2006, whereby, a direction was given to the respondents to decide the legal notice served by the petitioner. Thereafter, petitioner filed CWP No. 3195 of 2007 seeking a direction to the respondents that his retiral benefits including leave encashment, gratuity etc. as per the revised grades w.e.f. 01.01.1996 be released to him. The said writ petition was disposed of by this Court vide order dated 22.08.2008 directing the respondents to consider the representation moved by the petitioner for the necessary relief. Since the directions issued by this Court were not complied with, petitioner filed COCP No. 1897 of 2008. The said contempt petition was disposed of by this Court vide order dated 28.08.2009. Petitioner again filed COCP No. 2156 of 2008 and the same was disposed of vide order dated 10.12.2009 (Annexure P-6). Petitioner was given liberty to approach the respondents if there was any dispute qua the payment

made to him. Thereafter, petitioner moved a representation before the respondents with the prayer that his retiral benefits be released to him along with interest. Thereafter, petitioner filed petition No. 17 of 2012 before the Educational Tribunal, Punjab. Vide the impugned order (Annexure P-9), the said petition was dismissed. Hence, the present petition.

3. Learned counsel for the petitioner has submitted that the petitioner had not been released his leave encashment, gratuity and provident fund as per the revised pay scale. Therefore, the Tribunal had erred in dismissing the petition filed by the petitioner.

4. In the present case, petitioner is claiming the retiral benefits on the basis of revised pay scale. Earlier, petitioner had filed CWP No. 3195 of 2007 claiming the said relief. The said petition filed by the petitioner was disposed of vide order dated 22.05.2008 (Annexure P-4).

5. The operative part of the order reads as under:-

In view of the fact that the petitioner has retired after rendering about 30 years of service, he is entitled to all benefits in view of the order passed by this Court in K.C. Sharma's case (supra).

Present writ petition is allowed in terms of order passed by this Court in CWP No. 3583 of 2007 (K.C. Sharma v. State of Punjab and others). It will be appropriate that in the light of KC Sharma's case (supra), the claim of the petitioner is redressed by the respondent No. 2, Director Public Instructions, Punjab Sector 17, Chandigarh. In case any other claim is not covered by the judgment of KC Sharma's case (supra), petitioner shall make a representation to the respondent No. 2, who shall look into the same and decided in accordance with law.

6. CWP No. 3583 of 2007 was disposed of vide order dated 17.12.2007. The operative part of the said order reads as under:-

Accordingly, we direct that leave encashment benefit be given by respondents No. 2-management of the College, irrespective of aid from the State, while arrears of pay be given by respondents No. 3-College within one month from the date of receipt of the aid from the State in that regard. The State of Punjab is directed to release benefits for the arrears within three months from today.

We make it clear that we have not dealt with any other issue except leave encashment and arrears as a result of revision of pay scales w.e.f. 1.1.1996. If any other issue survives, the petitioner will be at liberty to take any other remedy in accordance with law.

The petition is disposed of in above terms.

7. Thereafter, petitioner filed COCP No. 1897 of 2008 claiming that the directions issued by this Court had not been complied by the respondents. During the pendency of the contempt proceedings, it transpired that an amount of Rs. 2,50,694/- had been sanctioned by the Government vide letter dated 27.08.2009

as 95% grant-in-aid for further payment to the petitioner in respect of his arrears of salary on account of revision of pay scales. Rule was discharged as the grievance of the petitioner had been substantially redressed. However, petitioner was given an opportunity to submit a representation with regard to miscalculations of arrears, if any, to the respondents and the respondents were directed to dispose of the same by passing a speaking order.

8. Thereafter, petitioner filed COCP No. 2156 of 2008 and the said petition was disposed of vide order dated 10.12.2009. The operative part of the said order reads as under:-

The present contempt petition has been filed by the petitioner alleging that the respondents have paid only a sum of Rs. 1,16,938/- and rest of the amount of Rs. 1,33,756/- has not been paid to him.

Be that as it may, the order dated 16.11.2009 was passed by this Court in the presence of learned counsel for the petitioner noticing the fact that the order dated 28.8.2009 passed by this Court has been complied with. No objection was raised by learned counsel for the petitioner when the aforesaid order dated 16.11.2009 was passed. In view of the aforesaid facts, I am not inclined to take cognizance of this petition.

However, if the petitioner has not been made the full payment of Rs. 2,50,694/- by respondents No. 3 and 4, as alleged in this contempt petition, he shall be at liberty to approach the aforesaid respondents in this regard and if any such representation is made, the same shall be decided by the aforesaid respondents in accordance with law within three months from the date of receipt of such a representation.

9. Vide the impugned order dated 13.09.2013 (Annexure P-9), petition No. 17 of 2012 filed by the petitioner before the Educational Tribunal, Punjab was dismissed.

10. The operative part of the said order reads as under:-

In COCP No. 2156 of 2008, the allegations of the petitioner were that he received a sum of Rs. 1,16,938/- and the rest of the amount of Rs. 1,33,756/- was not paid to him. The Hon'ble High Court order dated 10.12.2009 vide which contempt petition No. 2156 of 2008 was disposed of categorically held that since order dated 16.11.2009 was passed by the High Court in the presence of counsel for the petitioner noticing the fact that order dated 28.8.09 was complied with. At that time, no objection was raised by counsel for the petitioner when order dated 16.11.2009 was passed. In these circumstances contempt petition No. 2156 of 2009 was dismissed. An option was given to the petitioner that if the payment of Rs. 2,50,694/- as alleged in this contempt petition has not been made fully, he could approach the respondents in this regard and on making representation, it would be disposed of within three months. The aforesaid orders clinches the issue and before the Hon'ble High Court the controversy between

the parties had been narrowed down. The Hon"ble High Court while disposing of the contempt petition filed by the petitioner took full notice of facts and circumstances of the case and finally was of the view that dispute remained with regard to Rs. 2,50,694/-. According to the respondents, this amount has been paid. In this regard, if the petitioner is not satisfied, he could make representation. In other words, there was no other matter to be sorted out before the Hon"ble High Court for retiral benefits of the petitioner. In view of the finality of the orders of the Hon"ble High Court, it would be unfair for the Tribunal to further probe into the claim of the petitioner with regard to the amounts claimed by the petitioner from time to time. We have gathered this impression from the lis before us that petitioner himself is not sure about the claimed amount. His claim has been duly settled according to law by Hon"ble High Court to his satisfaction as observed by the Hon"ble High Court. Finally the controversy rested on small issue with regard to arrears and that amount too has been paid. The petitioner did not make any representation in spirit of the order, but made representation on the same day by claiming Rs. 11,98,715/- under various heads. In this representation dated 10.12.2009, the petitioner did not make any reference of the order passed in COCP No. 2156 of 2009. Summing up our aforesaid discussion, we are of the view that this Tribunal cannot over look the various orders passed by the Hon"ble High Court from time to time in various contempt petitions. The petitioner was satisfied with the relief given to him and now he is trying to open a new chapter from the beginning by repeating stale allegations which has already been disposed of by the Hon"ble High Court. We have examined this case even from equitable angle also and are of the view that the petitioner is not entitled to any relief as claimed by him in his additional affidavit dated 10.9.2013. Resultantly, the petition is hereby dismissed with no order as to costs. One copy of the order be given to petitioner and one copy of the order be provided to management on application free of cost.

11. Thus, in the present case, COCP No. 2156 of 2008 filed by the petitioner was disposed of by this Court. Petitioner was given a liberty to approach the respondents in case full payment had not been made to him and the respondents were directed to dispose of the said representation within three months from the date of the receipt of the same. Petitioner, however, approached the Educational Tribunal, Punjab seeking virtually the same relief which he had sought before this Court. In these circumstances, the Tribunal was justified in dismissing the petition filed by the petitioner. The reasons given by the Tribunal while dismissing the petition filed by the petitioner are sound reasons. Hence, no ground for interference is made out.

12. Dismissed.