(2019) 05 P&H CK 0194

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 17331 Of 2016

Satbir Chalia APPELLANT

Vs

Uttar Haryana Bijli Vitran Nigam Limited And Others RESPONDENT

Date of Decision : 14-05-2019

Acts Referred:
Punjab Civil Services Rules, — Rule 2.2(b)

Citation : (2019) 05 P&H CK 0194

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : R.K. Chaudhary, Sukhdeep Parmar, Narinder S. Lubana, Abhilaksh Grover

Final Decision : Allowed

Judgement

In the present writ petition, the grievance which is being raised by the petitioner is that though he has retired on 30.11.2013 but the pensionary benefits for which he was entitled after/on his retirement, have not been released by the respondents till date.

Learned counsel for the petitioner argues that on the day when petitioner retired i.e. 30.11.2013, there was no charge-sheet pending, still the respondents did not release the pensionary benefits of the petitioner. After his retirement, one charge-sheet was issued to him on 31.08.2015 and thereafter another charge-sheet was issued on 03.03.2017. Learned counsel for the petitioner states that though, issuance of the charge-sheet after the retirement in respect of an allegation which was approximately more than four years old prior to the issuance of the said proceedings, was beyond the jurisdiction of the respondents keeping in view the Rule 2.2(b) of the Civil Services Rules, which have been adopted by the respondents but still, charge-sheets were enquired into. After the enquiry, charge-sheet dated 31.08.2015 was finalized on 04.03.2017 by imposing a punishment of 5% cut in pension for a period of one year and the charge-sheet dated 03.03.2017 was decided on 30.08.2018 by imposing the punishment of stoppage of 5% pension for a period of one year. Learned counsel for the petitioner further argues that after the decision of the charge-sheets, there was no impediment in the release of the pensionary benefits but no pensionary benefits have been released to the petitioner for the last more than five and half years.

Learned counsel for the respondents argues that once the charge-sheets were issued to the petitioner, withholding of the benefits keeping in view the pendency of those charge-sheets, was well justified. It has been admitted by the respondents that no benefit was released to the petitioner prior to the issuance of the charge-sheet or even after the charge-sheets have been finalized by the respondents and no justification has come forward for not releasing the same.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a matter of fact that petitioner retired from service on 30.11.2013. The first charge-sheet was served upon him on 31.08.2015 i.e. after a period of one year and nine months of his retirement. The second charge-sheet was served upon the petitioner on 03.03.2017 which is approximately more than three and half years after his retirement. No justification has been given that in the absence of any charge-sheet, why pensionary benefits were not released by the respondents when petitioner had retired on 30.11.2013. There is no Rule, which provides that the pensionary benefits of an employee can be withheld in anticipation of issuance of the charge-sheet. Therefore, withholding of the amount of retiral benefits by the respondents was not at all justified at the time when petitioner retired from service on 30.11.2013.

Not only this, even two charge-sheets, which were issued to the petitioner subsequent to his retirement, have already been decided still, even after the decision on those charge-sheets, no benefit has been released to the petitioner. No justification has come forward as to why the retiral benefits have not been extended to the petitioner even upto now. In the absence of any justification, it can be safely presumed that non-release of the benefits even upto now is totally arbitrary and an illegal act on the part of the respondents.

Further, as per the settled principle of law, even if there is a charge-sheet pending against an employee, only the benefit of leave encashment and the gratuity can be withheld. An employee is to be paid the other retiral benefits including the provisional pension. No such benefit has been extended to the petitioner so far.

In view of the above, present writ petition is allowed. Respondents are directed to release the pensionary benefits of the petitioner within a period of one month from the receipt of copy of this order. As on the day, when the petitioner retired in November, 2013, there was no proceeding pending and the benefits for which the petitioner was entitled for, could not have been withheld, petitioner is held entitled for interest @ 9% per annum. Though, subsequently, the charge-sheets were issued to the petitioner but even during the pendency of the charge-sheet, pension and the other benefits except gratuity and leave encashment could not have been withheld, the petitioner is held entitled for the interest as mentioned above on the retiral benefits except gratuity and leave encashment from 30.11.2013 till the same are released. On gratuity and leave encashment, petitioner is held entitled for interest from 01.09.2018 till the payment of the same. Let the payments of retiral benefits be released as directed above within a period of three months from the receipt of certified copy of this order.

Writ petition stands allowed in above terms.

