

(2013) 05 P&H CK 0108

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 15766 of 2012

Amrik Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: May 20, 2013**Citation:** (2013) 171 PLR 310**Hon'ble Judges:** Rakesh Kumar Garg, J**Bench:** Single Bench**Advocate:** Sonia G. Singh, for the Appellant; Anil Kumar Sharma, Addl. A.G., Punjab and Mr. Tarun Vir S. Lehal, for the Respondent**Final Decision:** Allowed

Judgement

Rakesh Kumar Garg, J.

Petitioner retired as Clerk from Municipal Council, Sultanpur-Lodhi on 30.4.2008, on attaining the age of superannuation. His pension was not sanctioned on account of one audit objection pending against him. According to the Audit Department, during the audit for the period from April, 1999 to March, 2006, it came to their notice that a sum of Rs. 2,861/- was deposited less by the petitioner and the same was got deposited in the Municipal fund vide receipt book No. G8 No. 24/365 dated 1.11.2006. It may further be noticed that the Municipal Council vide resolution No. 28 dated 5.6.2007, decided to issue a warning to the petitioner and sanctioned to file the said case. It may also be noticed that the Municipal Council further passed resolution No. 78 dated 2.3.2012, whereby a cut of 1/2% was applied in the pension of the petitioner and on that account, revised pension was sanctioned. Despite the aforesaid admitted facts, the petitioner was not released his regular pension and thus, he has approached this Court seeking the relief claimed.

2. The writ petition has been contested by the Municipal Council, Sultanpur Lodhi as well as the Examiner, Local Fund Accounts, Punjab by filing separate written statements.

3. In the written statement filed on behalf of Municipal Council, Sultanpur Lodhi, the facts noticed above have not been disputed. However, it has been stated that the Municipal Council, Sultanpur Lodhi has written various letters to respondent No. 4 i.e. Examiner, Local Fund Accounts, Punjab with a request to remove the audit objection and for issuance of fresh instructions about the further action to be taken in the case of the petitioner, but no reply has been received and in these circumstances, the pension of the petitioner can be released only after removal of the audit objection.

4. At this stage, it may be noticed that the Audit Department has contested the case of the petitioner vehemently. In the written statement filed on behalf of respondent No. 4 by way of affidavit of Dharampal, Regional Deputy Director (Local Audit), Jalandhar, it has been stated that the petitioner had embezzled the amount of Rs. 2861/- and a certificate was issued in this respect under Rule 17.18(2) of the Punjab Municipal Accounts Code, 1930, but inspite of issuance of certificate of embezzlement, the Municipal Council failed to get an FIR registered against the petitioner. Since no FIR has been registered in this case and decision for closing the case against petitioner has been taken at the level of Municipal Council, Sultanpur Lodhi itself, the same is not in accordance with the Rules, as provided in the Punjab Municipal Accounts Code, 1930 and therefore, denial of release of regular pension to the petitioner is justified.

5. I have heard learned counsel for the parties and perused the averments made in the writ petition, written statement as well as documents placed on record.

6. The facts and circumstances of the case clearly shows the "State Apathy" shown to an employee. Admittedly, no disciplinary proceedings/criminal proceedings were initiated against the petitioner at any point of time for alleged embezzled of Rs. 2861/- by him, yet the respondent No. 4 is adamant to treat the said less deposit of amount of Rs. 2861/- as embezzlement. This Court is of the view that in absence of any proceedings initiated against the petitioner, to say that he has embezzled the amount of Rs. 2861/- is nothing but an insensitive approach on the part of the official respondents. Not only this, the aforesaid amount stood deposited in the account of the Municipal Council on 1.11.2006 and no further action was taken against the petitioner and he was let off by issuing a warning. Further, the petitioner was punished for the aforesaid lapse on his part by applying 1/2% cut in his pension vide resolution No. 78 dated 2.3.2012. It may further be noticed that admittedly, the Municipal Council, Sultanpur Lodhi wrote to the police authorities for registration of a case against the petitioner but the same was not registered by the police, clearly inferring that no case is made out against the petitioner.

7. In these circumstances, denial of pension to the petitioner cannot be justified. Thus, the writ petition is allowed, the respondents are directed to release the regular pension of the petitioner along with consequential benefits arising therefrom within one month from today.

8. Since the petitioner has been denied his retrial benefits by the respondents without any rhyme or reason, he is also entitled to interest @ 9% per annum from the date of his retirement till the release of due amount to the petitioner. Keeping in view the unjustified stand taken by the respondents to contest the writ petition, this Court is of the view that the respondents are further held liable to pay costs of Rs. 50,000/-. Let the aforesaid costs be deposited by the Municipal Council, Sultanpur Lodhi as well as respondent No. 4 in equal shares with the Punjab State Legal Services Authority, Chandigarh within one month from today.