

(2013) 09 P&H CK 0420

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 16416 of 2011 (O and M)

Satish Chandra Kumar

APPELLANT

Vs

Syndicate Bank and Others

RESPONDENT

Date of Decision: Sept. 4, 2013

Hon'ble Judges: Ajay Tewari, J

Bench: Single Bench

Advocate: Alok Jagga and Mr. Gyan Singh, for the Appellant; Randeep Singh, Advocate for Mr. Vipin Mahajan, for the Respondent

Final Decision: Allowed

Judgement

Ajay Tewari, J.

The claim in the present writ petition is for the grant of leave encashment and gratuity. The second issue raised is that the respondent-bank has retained the original title deed of the property of the petitioner mortgaged with the bank as security, bearing House No. 77, Hamida Colony, Yamuna Nagar, Haryana, illegally. The petitioner was appointed as Clerk in the respondent-Bank on 2.9.1972. Thereafter, an inquiry was launched against him and he was given punishment of compulsory retirement. However, his leave encashment and gratuity were not released. Hence this writ petition.

2. In the written statement, the defence taken is that the petitioner was found guilty of having obtained unreasonable pecuniary advantages for himself and after consideration of the entire case, he was given punishment of compulsory retirement and, therefore, the respondent-bank was justified in retaining his leave encashment and gratuity.

3. Counsel for the petitioner has relied upon a Single Bench decision of this Court in Ashwani Kumar Sharma vs. UCO Bank, 2006 (4) SCT 171, wherein in similar circumstances, the order with-holding gratuity and leave encashment was set aside and a direction was issued to the respondent therein to pay the said amounts within

a period of two months from the receipt of certified copy of the order. LPA No. 191 of 2006, UCO Bank vs. Ashwani Kumar Sharma was also dismissed by this Court on 1.2.2010 with the following observations:-

8. A perusal of above shows that Clause (e) of Regulation 46 above which has been relied upon by learned counsel for the appellants cannot apply to the case of compulsory retirement. Similarly, First Proviso to Regulation 38 clearly shows that on retirement, an officer is entitled to leave encashment. There is no provision for withholding gratuity and leave encashment in the case of compulsory retirement.

4. In this view of the matter, this writ petition is allowed and the impugned order is set aside. The respondents are directed to release the amount payable to the petitioner within two months from the receipt of a certified copy of this order, failing which he would be entitled to claim the same with interest @ 6% p.a. from the date the amount fell due to the date of actual payment.

5. As regards the second issue, the petitioner shall be at liberty to make a representation to the respondent-bank within one month and the respondent shall decide the same by passing a speaking order thereon within one month thereafter. No order as to costs.