

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 23631 of 2013 (O&M)

Date of decision: 17.07.2015

Mukhtiar Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. J.S. Khiva, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks issuance of directions to the respondents to release the retiral benefits along with interest @ 10% per annum.

The brief facts of the case are that the petitioner joined as Sub Inspector with the respondent-Department on 18.06.1971. He served the Department with full dedication but unfortunately, four days prior to his superannuation i.e. 31.07.2004, he was charge sheeted on 27.07.2004 and departmental inquiry was initiated against the petitioner. During the pendency of enquiry, the petitioner retired from the service on 31.07.2004. On the same set of allegations, FIR No. 34 dated 13.08.2004, under Sections 409 and 120-B IPC and

Section 13(1)(d) read with Section 13(2) (88) of Prevention of Corruption Act, was registered against the petitioner. Thereafter, vide order dated 03.01.2005, 75% provisional pension along with other allowances were granted to the petitioner. The petitioner was convicted by Special Judge, vide judgment dated 20.12.2010. Aggrieved thereby, the petitioner preferred an appeal before this Court, in which, his sentence was suspended during the pendency of the appeal. Ultimately, vide order dated 21.01.2011, passed by respondent No.2, the petitioner was dismissed from service w.e.f. 31.07.2004 i.e. the date of his retirement.

It is contended by learned counsel for the petitioner that the order of termination dated 21.01.2011 is illegal as the same was passed without giving an opportunity of hearing to the petitioner. The judgment of conviction dated 20.12.2010 has not attained the finality. The respondents have illegally stopped the provisional pension granted to the petitioner. Once the appeal against the judgment of conviction is pending, the withholding of retiral benefits of the petitioner is not sustainable in the eyes of law.

On the other hand, the learned State counsel refers to Rule 2.2(b) of Punjab Civil Services Rule Vol.2 and states that the petitioner was terminated by the respondent-Department on account of his conviction in FIR case. The pension of the petitioner has been withheld as per Rule specified in Punjab Civil Service Rules.

Therefore, the present petition deserves to be dismissed.

I have heard the learned counsel for the parties and have gone through the record.

Admittedly, the petitioner was terminated from service on account of his conviction in a criminal case. The petitioner was retired on 31.07.2004. As per Rule 2(c)(1) of the Punjab Civil Services Rule, Vol.2, he was given provisional pension till the outcome of judicial proceedings. Furthermore, Rule 2.2(b) of the Punjab Civil Services Rule Vol.2 reads as under:-

“2.2(b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if, in a departmental or judicial proceeding, the pensioner is found guilty of grave mis- conduct or negligence during the period of his service, including service rendered upon re-employment after retirement.”

The petitioner being a Government servant had been convicted in a corruption case. As per the above said Rule, the authority reserves the right of withholding or withdrawing the pension, whether permanently or for a specified period. The authorities have rightly passed the order dated 21.01.2011, terminating the petitioner from service and stopping the retirement

benefits of the petitioner.

Keeping in view the above facts, circumstances and the Rule cited above, no case for the relief sought is made out. Accordingly, the present petition is dismissed as such.

17.07.2015

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(JITENDRA CHAUHAN)
JUDGE