

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

CWP No. 26935 of 2013 (O&M)

Date of decision: 11.05.2015

Amarjit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Rahul Jaswal, Advocate for
Mr. Vivek K. Thakur, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab
for the State.

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 gratuity along with interest on the delayed payment of other retiral benefits.

The learned counsel for the petitioner contends that the retiral benefits of the petitioner were withheld on account of pendency of FIR No. 36 dated 30.07.2006, registered under Section 304-A, 279, 338 and 427 IPC. Subsequently, the petitioner was acquitted of the charges, vide judgment of acquittal dated 27.02.2013 (Annexure P-1). He further states that except the FIR case, no other disciplinary proceedings were pending against the petitioner.

The learned State counsel does not dispute the factual position.

This Court in **Darshan Singh Vs. State of Punjab and others**, 2011(3) PLR 584, has held as under:-

“From the bare reading of above provision, it appears that the Govt. has power to withheld or withdraw pension or order of recovery from the Govt. employee only if, departmental proceedings or criminal proceedings are pending in respect to grave misconduct or negligence and where there is an apprehension of loss caused to the Govt. as a consequence of such misconduct or negligence. In the present case there is no such circumstance nor there is any allegation of causing loss to the Govt. Mere pendency of the criminal proceedings is not sufficient to withhold the retiral benefits of the petitioner in any manner particularly when the judicial proceedings are unrelated to the service misconduct of the petitioner.

*Since the criminal proceedings are totally unrelated to the service misconduct, the respondents are not entitled to invoke provisions of Rule 2.2. (b) of Rules for withholding the pension and other retiral benefits of the petitioner. A similar view has been expressed by this Court in case of **Atam Bodh Sharma Vs. State of Haryana & others** reported as **2006(4) SCT 768**. As a matter of fact the criminal proceedings in the present case are of such a nature that no action is warranted against the petitioner relating to his employment after his retirement. Such criminal proceedings could only be a ground for initiating action against the Govt. employee, if, he is convicted for the criminal offence during service. Assuming for the sake of an argument that the petitioner*

is convicted after his retirement for an offence not related to his service misconduct, there is no provision in the rules which may entitle the Govt. to initiate post retiral action against the retired Govt. employee for his conviction for an offence unrelated to the service misconduct.”

In view of the above, the present petition is allowed in terms of Darshan Singh's case (supra). The respondents are directed to release all the retiral benefits to the petitioner along with interest @ 8% p.a., on the delayed payment from the date it became due till final payment.

11.05.2015

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(JITENDRA CHAUHAN)
JUDGE