

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

LPA No. 1233 of 2015 ( O&M )

DATE OF DECISION : 24.08.02015

Mukhtiar Singh

.... APPELLANT

Versus

State of Punjab and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Jagraj Singh Khiva, Advocate,  
for the appellant.

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**SATISH KUMAR MITTAL, J.** ( Oral )

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 17.07.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 23631 of 2013) filed by the appellant seeking direction to the respondents to release his retiral benefits along with interest at the rate of 10% per annum, has been dismissed.

Though there is delay of 3 days in filing the instant appeal, and the appellant has filed application (CM No. 2632-LPA of 2015) for condoning the said delay, yet we have heard learned counsel for the appellant on merits and have gone through the impugned order passed by the learned Single Judge.

After hearing learned counsel for the appellant, we do not find

any merit in this appeal.

In this case, the appellant joined the Food and Supplies Department as Sub Inspector and at the time of his superannuation on 31.07.2014, he was serving as Inspector Grade-I. Before his superannuation, he was charge sheeted on 27.07.2014 and the departmental enquiry was initiated against him. During the pendency of the enquiry, the appellant retired from service. On the same set of allegations, an FIR was also registered against the appellant for the offences under Sections 409 and 120-B IPC and Section 13 (1) (d) read with Section 13 (2) (88) of the Prevention of Corruption Act, 1988. During the pendency of trial in the aforesaid FIR, 75% provisional pension along with other allowances were granted to the appellant. Ultimately, vide judgment dated 20.12.2010 passed by the trial court, the appellant was convicted in the aforesaid case. Upon his conviction under the Prevention of Corruption Act, 1988, the appellant was dismissed from service from the date of his retirement. In these circumstances, he filed the aforesaid writ petition.

The learned Single Judge dismissed the writ petition on the ground that as per Rule 2.2 (b) of the Punjab Civil Services Rules, Volume 2, the Government reserves its right of withholding the pension or any part of it, if in a departmental or judicial proceeding, the pensioner is found guilty of grave mis-conduct or negligence during the period of his service.

Learned counsel for the appellant argued that against the

judgment of conviction of the appellant, the appeal filed by him is pending. Therefore, in view of the aforesaid Rule, the withholding of his pension is not justified. In our opinion, pendency of an appeal, wherein the judgment of conviction is not stayed, case of the appellant will not improve. In case, the said appeal is dismissed, the appellant is not entitled for grant of any pensionary benefits. If the appeal is allowed, it will always be open for the appellant to approach the respondents for setting aside the order of his dismissal from service, which according to the appellant is based only on his conviction in the criminal case under the Prevention of Corruption Act, 1988. Hence, we do not find any illegality in the impugned order passed by the learned Single Judge.

Dismissed.

**( SATISH KUMAR MITTAL )**  
**JUDGE**

**August 24, 2015**  
ndj

**( MAHAVIR S. CHAUHAN )**  
**JUDGE**