

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

Date of decision: 24.08.2016

CWP No.8507 of 1995

Chunni Lal

...Petitioner

Vs.

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner.

Ms. Shruti Jain Goel, AAG, Haryana.

RAJIV NARAIN RAINA, J.

No one has put in appearance for the petitioner despite notice in the cause list. Heard the respondent through its State counsel attached to this Court by the Advocate General, Haryana.

Informs that subsequent to the filing of this petition partial relief has fallen to the lot of the petitioner from the department, but still part payment claimed has been denied on the leading question answered as to whether the petitioner is entitled to the balance of the subsistence allowance i.e. 25% during period of suspension and inquiry for misconduct causing financial loss to the State, which order passed on 09.12.2003 by the competent authority gives rise to a fresh cause of action and independent right to sue, whereby the punishment stands suitably modified in favour of the petitioner and the amount of recovery of money was reduced from 70% to 40% of the amount determined. It is this impugned order which denies balance payment of the subsistence allowance already paid. But the factual position is that no challenge has been laid to the order nor has the petition

been amended to lay challenge to the same in these thirteen intervening years. Thus, it can reasonably be presumed that the petitioner was satisfied with the dispensation on having obtained substantial relief of reduction both in penalty for misconduct and in the amount of recovery imposed against him and I would therefore accept the contention of Ms. Shruti Jain Goel, AAG, Haryana, that this petition has been rendered infructuous or at least rendered ineffective for exercise of certiorari jurisdiction and writ of mandamus by reason of acquiescence, conduct and waiver of rights, if any.

Consequently, the present petition is disposed of as infructuous/non-contested.

Since the petitioner has not appeared, a copy of this order be sent to him by Registered A.D. post by the office. It will be also the duty of the Department on receipt of this order to inform the petitioner of this order, if he is in service, and if not, then at his address in office record or in the pension papers, being presumably a pensioner.

[RAJIV NARAIN RAINA]
JUDGE

24.08.2016
Vimal

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*