

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

CWP No.21786 of 2014 (O&M)

Date of decision : July 27, 2016

Jagmal Singh (deceased) through LRs

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Diwan S. Adlakha, Advocate for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Petitioner was working as Office Kanungo with Revenue Training Institute, Ambala Cantt. During service, an FIR No.15, dated 19.05.2008, under Sections 7 & 13(1)(d) of the Prevention of Corruption Act, 1988 was registered at Police Station Ambala. The petitioner retired from service on 31.08.2012. However, in the said FIR , he was convicted and sentenced by the learned Special Judge, Ambala, vide judgment and order dated 29.09.2012.

The petitioner preferred an appeal against his conviction and sentenced, which has been admitted by this Court and the sentence of the petitioner was suspended vide order dated 16.11.2012. No pensionary benefits were released to the petitioner including pension, GIS, gratuity, leave encashment etc. Therefore, the petitioner had approached this Court by way of filing of the present writ petition for releasing his retiral benefits.

I have heard learned counsel for the parties and have also carefully gone through the case file.

The respondents claim that the pensionary benefits of the petitioner have been withheld under Rule 2.2. (a) of the Punjab Civil Services Rules, Volume-II, Part-1.

At the time of arguments, learned counsel for the petitioner has restricted his relief to the release of leave encashment, GIS and provisional pension.

After hearing learned counsel for the parties, I am of the view that the petitioner was convicted in the criminal case after his retirement. So far as show cause notice has been issued to the petitioner by the Department nor any inquiry was being held. Under Rule 2.2(a) of the Rule *ibid*, the Government has the right of withholding or withdrawing a pension or any part of it if the pensioner be convicted of serious crime or be guilty of grave misconduct.

However, the Government cannot take any action merely on the basis of a conviction, which is pending appeal before the higher court or in the alternative holding the departmental inquiry.

In these circumstances, the respondents are directed to release the benefits of leave encashment, GIS and provisional pension.

However, another development has taken place that is during the pendency of the present writ petition, the present petitioner-Jagmal Singh has himself expired on 20.12.2014 and his legal heirs have been brought on record and are pursuing the present petition.

It being so, the criminal case against the present petitioner will stand abated unless the legal heirs insist for the decision on merits. Thus, the Department will not be in a position to hold any inquiry or pass any order under Rule 2.2(a) of the Rule *ibid* against a dead pensioner.

Accordingly, now after the death of the petitioner, the Department is directed to release all the pensionary benefits to the legal heirs of the deceased. However, on the benefits of leave encashment and GIS, the legal heirs are also entitled to interest @ 9% per annum starting three months from the date of retirement till its payment.

As such, the present writ petition is allowed.

(KULDIP SINGH)
JUDGE

July 27, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: No