

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

CWP No. 8469 of 2012 (O&M)
Date of Decision: 17.10.2016

RAJINDER KUMAR THROUGH LR

... Petitioner

Vs.

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Harish Sharma, Advocate
for the petitioner.

Mr. R.S. Pathania, DAG, Punjab.

Mr. I.S. Sidhu, Advocate,
for the respondents No. 2 and 3.

KULDIP SINGH, J (ORAL)

Rajinder Kumar S/o Devi Sahai (now deceased) had approached this Court by way of this writ petition filed under Articles 226 and 227 of the Constitution of India seeking issuance of writ of mandamus directing the respondents to pay provident fund and 100% provisional pension alongwith interest @ 12 % per annum on delayed payment. Said Rajinder Kumar died during the pendency of the present writ petition on 11.07.2015 and his legal heir was brought on record.

Brief facts of this case are that Rajinder Kumar was working as Junior Assistant in Municipal Corporation, Ludhiana. During the service, some allegations of misappropriation of funds were leveled against him. He was placed under suspension on 03.04.2006.

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It also comes out from the reply of the respondents that two FIRs were registered against the petitioner. One FIR No. 64 dated 22.04.2006 was registered under Section 409 IPC and the second FIR No. 127 dated 06.07.2007 was registered under Section 409 Indian Penal Code (IPC). In the first FIR No. 64 dated 22.04.2006, he was convicted and sentenced by the Judicial Magistrate Ist Class, Ludhiana on 15.01.2014 and sentenced to rigorous imprisonment for two years and fine of ₹ 2000/- and in default of payment of fine to further undergo 15 days simple imprisonment and however, in the second FIR No. 127 dated 06.07.2007, the petitioner was acquitted by the trial Court.

It further comes out from the copy of the judgment dated 08.05.2015 (*Annexure P/B*), the appeal filed by Rajinder Kumar was allowed by the learned Additional Sessions Judge, Ludhiana and he has been acquitted in the said case also. The pensionary benefits were withheld on the ground of pendency of FIRs.

Since, the petitioner has been acquitted in both the cases and he superannuated on 30.11.2008, therefore, now the full pension alongwith GPF and other retiral benefits is to be released to him.

It being so, the present petition is allowed. The respondent No. 2 is directed to release the remaining part of the pension which accrued to Rajinder Kumar during life time and thereafter, the family pension to his wife Saroj Bala within one month from the date of receipt of the copy of this judgment. The remaining pensionary benefits be also released to the family of the deceased employee, as per Rules. The arrears shall carry interest of

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@ 9% per annum from the date of acquittal of Rajinder Kumar by the appellate Court i.e. 08.05.2015 till payment.

In view of the above, the present petition stands allowed.

October 17, 2016
Suresh Kumar

[KULDIP SINGH]
JUDGE

	✓	
<i>Whether speaking / reasoned</i>	<i>Yes</i>	<i>No</i>
		✓
<i>Whether Reportable</i>	<i>Yes</i>	<i>No</i>