

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

**Civil Writ Petition No. 4239 of 2016 (O&M)
Date of Decision: 09.09.2016**

Raj Pal Handa and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Gurcharan Dass, Advocate
for the petitioners.

Mr. Vaibhav Sharma, Deputy Advocate General, Punjab
for the respondents.

JASWANT SINGH, J. (ORAL)

Two petitioners, namely Raj Pal Handa and Dharam Pal Garg, had retired on 30.09.2003 and 31.01.2007, respectively, from the rank of Senior Assistants with the Department of Treasury and Accounts, Govt. of Punjab, on attaining the age of superannuation of 58 years. They alongwith other co-accused were facing trial in FIR No. 79 dated 06.08.1998, under Sections 409, 420, 467, 468, 471, 201, 120-B of the Indian Penal Code and 13 (1) d read with 13(2) of Prevention of Corruption Act, 1988, registered at Police Station Vigilance Bureau, Patiala, and, therefore, only provisional pension was released to both the petitioners. The criminal trial culminated into passing of judgment dated 05.06.2013 (**Annexure P-2**), whereby both the petitioners were acquitted of all the charges, but convicted for an offence under Section 218 of the Indian Penal Code for preparing false and

by the commercial vehicle owners with an intention and knowledge to cause loss to the public exchequer. Both the petitioners were sentenced to imposition of fine of Rs. 25,000/- each for such conviction.

The present petition was filed in light of the aforesaid conviction, as their provisional pension had been stopped.

Upon notice, a reply has been filed on behalf of respondent No. 4 by way of affidavit of the District Treasury Officer. It is stated that on reconsideration, the stopped provisional pension has since been resumed, and the arrears of the pension w.e.f. June 2013 to March 2016 have since been credited to their accounts. It is further stated that payment of provisional pension from April 2016 has been continued. It further appears that all other retiral benefits have been paid except the amounts of gratuity admissible to the petitioners.

Learned counsel for the petitioner contends that in the light of charges against Raj Pal Handa (petitioner No. 1) that he had fabricated certificates for a sum of Rs. 55,108/- and Dharam Pal Garg (petitioner No. 2) for a sum of Rs. 1,355/-, the respondents be directed to release the remaining gratuity after withholding the aforesaid amounts, as both the petitioners have been acquitted of the charges of cheating, misappropriation, forgery or any kind of embezzlement. He further submits that even the conviction of both the petitioners has been stayed by this Court in criminal appeal bearing No. CRA-S-2330-SB of 2013 vide order dated 26.08.2013 passed by this Court (**Annexure P-6**).

Learned State Counsel in the light of facts on record, is unable to seriously contest the aforesaid contention.

After hearing learned counsel for the parties, this Court is persuaded to accept the prayer of the petitioners, moreso, when they have reached the age of almost 70 and 67 years, respectively.

A reading of the judgment dated 05.06.2013 **(P-2)** substantiates the factual contention on behalf of both the petitioners.

In view of the above, the present petition is disposed of with the direction that the respondents would release the gratuity amounts due to both the petitioners after withholding the aforesaid amounts qua both of them subject to the decision of the aforesaid appeal, pending before this Court.

September 09, 2016
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(JASWANT SINGH)
JUDGE

Whether Speaking/reasoned	Yes
Whether Reportable	No