

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8342 of 2013 (O&M)
Date of decision: 16.08.2016

P.S. Sodhi

.....Petitioner

versus

State of Punjab and Others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr. Arun Sharma, Advocate for the petitioner
Mr.Parupkar Singh Ghuman, Addl.A.G. Punjab

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Petitioner who was working as D.D.P.O., was convicted by Special Judge (P.C. Act), Nawanshehar under Section 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988 and sentenced to undergo Rigorous Imprisonment for two years and to pay a fine of Rs.3,000/- vide judgment and order dated 12.07.2008. Accordingly, the petitioner was dismissed from service on 29.09.2008. The petitioner has preferred an appeal before this Court, which is still pending.

It comes out, that the petitioner earlier filed CWP No. 8660 of 2010, dated 12.05.2010 which was disposed of by a Single Bench of this Court on 12.05.2010. Petitioner had prayed for release of his retiral benefits. However, the Bench allowed the release of GPF amount only while noticing the conviction of the petitioner in a corruption case. Meaning thereby, the claim for release of the remaining part of the retiral benefits is deemed to

have been declined. Petitioner thereafter, preferred another CWP No. 23343 of 2011 before this Court, seeking the release of the retiral benefits. A single Bench of this Court vide order dated 15.12.2011 (Annexure-P-3) directed the State to take a decision on the legal notice issued by the petitioner. Accordingly, the State Government passed a speaking order dated 12.9.2012 (Annexure-P-5), declining to release the remaining retiral benefits. Petitioner again approached this Court by filing CWP No.1614 of 2013, in which release of leave encashment was sought. The said writ petition was disposed of by this Court vide order dated 25.01.2013 (Annexure P-7), directing the petitioner to submit a representation to the Financial Commissioner to the Government of Punjab, Rural Development and Panchayats, which was to take the decision on the same.

It comes out, that the said department took a decision on 25.1.2014 (Annexure P-9), whereby they refused to release the leave encashment on the ground that as per Rule 8.21 (c) of Punjab Civil Services Rules Volume I Part I, only retiring employees are entitled to the leave encashment of unused earned leave. Petitioner had not retired but was dismissed from service. As such he was not entitled to leave encashment. Thereafter, petitioner has again preferred the present writ petition, wherein relief of the encashment of leave has been sought.

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

I am of the view that as per Rule 8.21 (c) of the Punjab Civil Services, Volume I Part I, so long the conviction remains in operation, the petitioner is not entitled to leave encashment and the Government had taken the right decision (Annexure P-9). The petitioner is time and again filing the

writ petitions fully knowing that in the first writ petition filed by him, the relief was not granted to him and the same is deemed to have been declined. The appeal against conviction is still pending before this Court and if the petitioner is exonerated in the said appeal, he can always make a fresh claim for release on leave encashment. However, so long the conviction remains in operation and the consequent dismissal order remains in operation, the petitioner is not entitled to leave encashment.

In view of the foregoing discussion, the present writ petition stands dismissed.

16.08.2016
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes/ No

Whether Reportable:

Yes/No