

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9874 of 2014 (O/M)
Date of decision : 17.10.2016

Jaswinderpal Singh and others Petitioner (s)

Versus

State of Punjab and others Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. D.K. Bhatti, Advocate, for the petitioner.
Mr. Rajat Bansal, Assistant A.G. Punjab.

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 ?

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KULDIP SINGH J. (ORAL)

The petitioners, who were working as Head Constables in Punjab Police, were booked during their service in FIR No. 168, dated 24.4.2003, registered under the various provisions of Prevention of Corruption Act, 1988, at Police Station Division No. 6, Ludhiana. Unfortunately, the trial is still continuing. In the meanwhile, all the petitioners have retired from service. The grouse of the petitioners is that though 100% provisional pension has been released to them, but other retiral benefits have not been released to them.

The respondents, in the reply, have taken the stand that 100% provisional pension has been released to the petitioners. The payment of leave encashment to all the three petitioners has also been released. It is stated that in addition to the criminal case, a departmental inquiry was also initiated, in which the petitioners have been found guilty of charges framed against them.

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However, the matter is still pending in the office of the Senior Superintendent of Police, Ludhiana, due to the pendency of the criminal case. Therefore, the respondents justified the detention of gratuity, GPF and other retiral benefits.

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

It is provided under Rule 9.14 of the Punjab Civil Services Rules that in case of pending departmental proceedings, the gratuity of the Government employee can be withheld, until the conclusion of the departmental or judicial proceedings or issue of final order thereon. Then, there are Rules 2.2 (a), (b) and (c) of the Punjab Civil Services Rules, which provide that action can be taken against the retired employees in case of serious crime or grave misconduct. Admittedly, in the present case, the criminal case is pending for about last 13 years. A parallel departmental inquiry was also initiated, which has been concluded, but no order is being passed due to pendency of the criminal trial.

I am of the view that the departmental proceedings and the criminal trial can go side by side. There is no bar on the part of the department to pass a final order on the departmental proceedings even if the criminal trial is pending. It being so, the respondents are directed to pass a final order in departmental inquiry within two months from the date of receipt of copy of this order. The petitioners have not been held guilty in the criminal trial. Therefore, there is no ground to withhold the retiral benefits except gratuity. It being so, the respondents are directed to release all other retiral benefits to the petitioners, if any, except gratuity. It shall always be open to the petitioners to proceed under Rule 2.2 (a), (b) and (c)

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of the Punjab Civil Services Rules, if they so desire.

The present writ petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

17.10.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No