

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.427 of 2013 (O&M)
Date of Decision: October 05, 2016

Sh.Shankar Lal

.....Appellant

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.P.K.Ganga, Advocate, for the appellant.
Ms.Palika Monga, DAG, Haryana.
Mr.Ashok S.Chaudhary, Advocate, for respondent Nos.2 to 5.

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1. Whether Reporters of Local papers 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?

Surya Kant, J. (Oral)

This Letters Patent Appeal challenges the order dated 23.01.2013 whereby the appellant's writ petition questioning the withholding of his entire pension as a result of his conviction in a corruption case under the Prevention of Corruption Act, has been dismissed.

[2] The facts are not in dispute. The appellant joined the respondent-Organization as Assistant Lineman and was later on promoted as Junior Engineer. While in service, he was caught red-handed accepting illegal gratification which led to registration of FIR No.05 dated 05.02.2007 under Sections 7/13/49/88 of the Prevention of Corruption Act. The appellant retired from service pending trial on 31.10.2009. He was later on convicted by the learned Special Judge on 22.03.2011 and sentenced to undergo RI for three years with fine. The aggrieved appellant preferred Criminal Appeal No.997-SB of 2011 which is pending in this Court.

[3] After conviction, the Competent Authority took a decision under Rule 2.2 (b) of the Punjab Civil Services Rules, Volume-II, Part-I, as applicable to the State of Haryana, and has ordered withholding of entire amount of pension admissible to the appellant. The challenge laid by the appellant to that order has been turned down by the learned Single Judge.

[4] The aforementioned Rule opens up with the following expression:-

“...2.2. Recoveries from pensions: (a) xx xx xx
(b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if , in a departmental or judicial proceeding, the pensioner is found guilty of grave mis-conduct or negligence during the period of his service, including service rendered upon re-employment after retirement:

Provided that:-

- (1) Such departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, he deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service;
- (2) Such departmental proceedings, if not instituted while the officer was in service whether before his retirement or during his re-employment-
 - (i) shall not be instituted save with the sanction of the Government;
 - (ii) shall not be in respect of any event which took place more than four years before such institution;

and

- (iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service.
- (3) No such judicial proceedings, if not instituted while the officer was in service, whether before his retirement or during his re-employment shall be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution.....”

(emphasis applied)

[5] It may be seen that there is no restriction with regard to quantum to with-hold the pension if the pensioner is found guilty of grave misconduct. It may further be seen that the future good conduct is one of the mandatory condition for the pensioner to draw the pension. The conviction for committing a serious offence is one of the dis-qualification to draw pension.

[6] The claim of the appellant that he had rendered 34 years service and thus cannot be denied pension or that the judgment of this Court in SI Surinder Singh versus State of Punjab and others, 2008(4) SCT 72, substantiates his claim, is wholly misconceived. In the cited-case the police officer was dismissed from service after holding departmental enquiry primarily on the ground of absence from duty and disobedience of the orders of superior authorities. Thus a question arose whether he could be deprived of entire amount of pension? In that regard, reference was made to

Rule 16.2 of Punjab Police Rules, 1934, which obligates the Competent

Authority to have regard to the total length of service before imposing

punishment. The Rule further contemplates that the punishment of dismissal from service can be awarded only in the case of gravest misconduct.

[7] In this view of the matter, no error can be found with the order passed by learned Single Judge. The appeal is accordingly dismissed.

[8] However, in case the appellant is acquitted in appeal, liberty is granted to him to re-agitate the matter in accordance with law.

[SURYA KANT]
JUDGE

October 05, 2016
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[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No