

**1276 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CWP No.8316 of 2008 (O&M)
Date of decision : February 17, 2017**

Iqbaljit Singh Walia

..... Petitioner

Versus

The State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. J.S. Sandhu, Advocate for the petitioner.

Mr. Anshul Gupta, AAG, 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 ?

KULDIP SINGH J. (ORAL)

Petitioner has preferred a writ of mandamus directing the respondents to release his retiral benefits. It comes out that the petitioner was working as Aero-Modeling Instructor in the office of 2nd Haryana Air Sqn., NCC, Karnal since 04.08.1975. He retired from service on 08.01.2004 on attaining the age of 55 years. During his service, an FIR No.211, dated 03.05.2002, under Sections 420, 467, 468 and 471 IPC was registered against the petitioner at Police Station P.S. Sadar Karnal. It was alleged in the FIR that the petitioner had misappropriated the office seals/stamps and forged signature and documents to obtain personal loan from banks and was succeeded in getting the loan. He was suspended on 03.12.2002. Since the ACR of the petitioner for the year 2001-02 was average and integrity was doubtful, therefore, he was not granted the extension after 55 years of age. He was reinstated on 19.12.2003 and was retired in public interest on attaining the age of 55 years.

Learned counsel for the petitioner has not disputed that the petitioner was convicted and sentenced by the trial court. His conviction was upheld by the revisional court and vide order dated 25.10.2013 passed

in CRR No.791 of 2013 and reduced the substantive sentence to undergo rigorous imprisonment of one year. The punishment of fine was maintained.

It being so, it is clear that the conviction of the petitioner in a criminal case has been maintained with a modification by this Court.

Learned counsel for the petitioner has also not disputed that the provident fund was released to the petitioner. The provisional pension @ 100% is being released to him. Only gratuity and commutation of pension have not been released. These are withheld on account of the pendency of the judicial proceedings. Since the judicial proceedings against the petitioner have been finalized and decided in the year 2013, therefore, now the respondents cannot withhold the gratuity and commutation of pension. The only remedy available with the Department is under Rule 2.2(b) of the Punjab Civil Services Rules, under which, a cut in the pension can only be imposed. The charges in this case are regarding obtaining loan by forging certain documents and signatures.

As no departmental proceeding is ever initiated against the petitioner, the respondents are ordered to release gratuity and commutation of pension of the petitioner with interest @ 9% per annum from the date of retirement of the petitioner till the date of payment. However, the department is always at liberty to initiate the proceedings under Rule 2.2(b) of the rules *ibid*, subject to the law of land and pass appropriate order, if it desire so.

As such, the present petition is allowed to the abovenoted extent.

(KULDIP SINGH)
JUDGE

February 17, 2017

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