

206 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH

CWP No. 14360 of 2013
DECIDED ON: AUGUST 28, 2017

JOGINDER SINGH

....PETITIONER

VERSUS

STATE OF PUNJAB AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vivek Thakur, Advocate
for the petitioner.

Ms. Sudeepti Sharma, Addl. AG, Punjab.

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought a writ in the nature of mandamus directing the respondents to release the retiral benefits i.e. Gratuity, commutation of pension and regular pension etc. alongwith interest and arrears thereof.

2. Undisputably, petitioner stood retired from service as Head Constable on April 30, 2011 and subsequent thereto, in a case bearing FIR No. 47, dated May 19, 2002, under Sections 302, 34 IPC registered at Police Station Fatehgarh Churian, District Gurdaspur, he was tried, convicted and sentenced

under Section 302/34 IPC. However, he has preferred an appeal, which has since been admitted by this Court for hearing but his sentence was suspended by this Court vide order dated September 27, 2012. During the course of arguments, it has emerged that petitioner has already been disbursed the amount on account of leave encashment, GPF, Retirement Welfare Fund. However, provisional pension granted to the petitioner was subsequently withheld on account of his conviction in the above-referred criminal case.

3. Vide order dated July 26, 2016, respondents were asked to pass a speaking order as to whether retiral benefits has been released to the petitioner and in case the same has not been released, to pass a speaking order. In pursuance of order dated July 26, 2016 passed by this Court, Senior Superintendent of Police, Kapurthala vide order dated August 20, 2016 observed that Leave Encashment, GPF, Final Payment and Retirement Welfare Fund have already been released. However, regular pension/provisional pension, Death cum Retirement Gratuity and Commutation Pension have not been released just on the ground that petitioner stands convicted vide judgment of conviction dated October 31, 2011 passed by learned Additional Sessions Judge, Gurdaspur.

4. It is well settled proposition of law that while acting under Rule 2.2 (a) and 2.2 (b) of Punjab Civil Services Rules, Volume II, respondents are within their jurisdiction to pass any order with regard to withholding or stoppage of provisional pension/regular pension and in consequence thereof, commutation of pension. But in no case respondents are authorised to withheld

the DCRG for the commission of any offence or conviction.

5. In case **Ex.Capt. R.S. Dhull vs. State of Haryana; 1998 (2) SCT 729;** the Hon'ble Apex Court observed that the retiree is entitled to interest @ 12% per annum on the withheld GPF and Gratuity etc. from the date the same became payable to him on his attaining the age of superannuation till the date the payment is made to him.

6. It is also well settled that proper time for the disbursement of retiral benefits will depend on the facts and circumstances of each case but normally, it would not exceed three months from the date of retirement which time limit has been laid down by the Apex Court in **State of Kerala vs. M. Padmanabhan; AIR 1985 SC 356; D.D. Tewari (D) through LRs vs. Uttar Haryana Bijli Nitran Nigam Ltd., 2014 (4); SCT 128; A.S. Randhawa vs. State of Punjab & others; 1997 (3) SCT 468, J.S. Cheema vs. State of Haryana & others; 2014 (3) RCR (Civil) 355 and Manohar Lal vs. State of Punjab & others, 2016 (4) SCT 250** as well as judgment rendered by this Court in **CWP No. 19179 of 2016**, titled as **Prof. Charanjit Singh Dhillon vs. State of Punjab & others;** decided on August 23, 2017.

7. Thus, respondents are directed to release the DCRG to the petitioner. within a period of three months from the date of certified copy of this order, that too, alongwith interest @ 9% per annum w.e.f. August 01, 2011 till its actual payment in view of judgments rendered by this Court in CWP No. 13405 of 2015 titled as **Ashok Kumar & others vs. State of Punjab and another; 2016 (3) SCT 1** as well by Hon'ble Apex Court in the case of **Ex.Capt. R.S. Dhull vs.**

State of Haryana; 1998 (2) SCT 729.

8. As far as the withholding or stoppage of regular pension, provisional pension and commutation of pension are concerned, a specific order has since been passed by Senior Superintendent of Police, Kapurthala on August 20, 2016 during the pendency of instant petition. The petitioner shall be at liberty to challenge the said order on the same on fresh cause of action stood accrued to him on the passing of the said order.

9. Accordingly, instant petition stands disposed of.

10. No order as to costs.

AUGUST 28, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*