

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.20600 of 2016
DECIDED ON: SEPTEMBER 25, 2017

GURMEET SINGH

.....PETITIONER.

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS.

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Brijender Kaushik, Advocate,
for the petitioner.

Mr. Ram Tilak Redhu, DAG, Haryana.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ especially in the nature of mandamus directing the respondents to release the pensionary benefits. AND further issuance of a writ in the nature of certiorari quashing order dated 02.09.2016 (P-6 (colly)), whereby pension of the petitioner has been withdrawn with immediate effect and for restoration of pensionary benefits with effect from the date of withdrawal.

2. Undisputably, petitioner stood retired as Assistant Sub Inspector, Telecommunications, Haryana Police on attaining the age of superannuation on 30.04.2013 but on account of pendency of criminal case bearing under Sections

307, 452, 323 and 506 IPC and his arrest as well as pendency of departmental inquiry at the time of his retirement, he was granted provisional pension in view of CSR Vol.11, Chapter 9 Rule 9.15(1)(c) and Vol.II part-1 Rule 2.2(c). Subsequent thereto, he was convicted and sentenced to undergo rigorous imprisonment for a period of three years along with fine vide judgment of conviction dated 20.09.2013 and order of sentence dated 23.09.2013 passed by Additional Sessions Judge, Ambala. However, an appeal preferred by the petitioner challenging his conviction and sentence before this Court stood admitted vide order dated 07.10.2013. Sentence imposed upon him by the trial court was also ordered to be suspended vide order dated 13.01.2014 passed by this Court.

3. Pursuant to his conviction and sentence as referred to above, respondents vide impugned order/letter dated 02.09.2016 (P-6 (colly)), has stopped the pension of the petitioner with immediate effect.

4. Now, the question which requires determination by this Court is whether action of the respondents in withdrawing/stopping the pension of the petitioner is legally and validly justified and in accordance with statutory provisions of law and service rules; and answer to this question is in the negative. A letter written by the Additional Chief Secretary to Govt. of Haryana, Home Department to Director General of Police, Haryana depicts that only two lines order was passed, which reads as under:-

“the matter has been examined by the Govt. and it has been decided that in view of the provision of rules, the pension in full needs to be withdrawn”

Subsequent thereto, necessary direction was given to the SSP as well

as to the Bank and to the Treasury Officer, which was further conveyed to the petitioner vide letter dated 02.09.2016. No inquiry was conducted prior to the passing of impugned order and stoppage/withdrawal of pension, which was earlier being drawn by the petitioner.

5. Such a question came for hearing before this Court titled as “***Om Parkash Verma v. State of Punjab and others***”, 2017 (4) SCC 805 and after having deliberated the matter, discussing the various judgments passed by Division Bench of this Court in case “***Kaur Singh v. Punjab State Electricity Board***”, 2007 (4) SCT 426 (P&H), as well as that of Hon'ble Apex Court captioned as “***Kulwant Singh v. Deputy District Primary Education Officer, Gurdaspur***, 1997(1) SCT 282 (P&H) and of this Court captioned as “***Ramesh Kumar v. State of Punjab and ors***”, 2015 (3) SCT 534, and “***Dr. Ishar Singh v. State of Punjab and another***”, 1994(1) SCT 563 as well as Rules 2.2 (a&b) of the Punjab Civil Services Rules Vol.II., this Court has observed that “since no enquiry was conducted prior to stoppage/withdrawal of entire pension of petitioner, it can be said to be result of non-application of mind by the competent authority. The competent authority has failed to appreciate the relevant rules to the detriment of the petitioner and has withdrawn his pension without determining the grave misconduct or negligence on his part. As a net result of the aforesaid discussion, instant writ petition is allowed and impugned order dated September 02, 2016 is set aside. The respondents are directed to make the payment of arrears of pension from the date it was stopped alongwith interest @ 9% per annum till the date it is actually paid, within a period of two months from the date of receipt of a certified copy of this judgment. However,

respondents shall be at liberty to conduct fresh enquiry if they so desire but any such action taken, shall operate prospectively from the date of passing of the order”.

6. The case of the petitioner stands fully covered within the parameters laid down in ***Om Parkash Verma's*** case (supra).

7. Accordingly, instant petition is allowed and order dated 02.09.2016 (P-6(colly)) is set aside. The respondents are directed to make the payment of arrears of pension from the date it was stopped alongwith interest @ 9% per annum till the date it is actually paid, within a period of two months from the date of receipt of a certified copy of this judgment. However, respondents shall be at liberty to conduct fresh enquiry if they so desire but any such action taken, shall operate prospectively from the date of passing of the order.

SEPTEMBER 25, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned ***Yes***

Whether reportable ***Yes/No***