

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

**CWP No. 25850 of 2015
DECIDED ON: NOVEMBER 16, 2017**

BALJEET SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA & ANOTHER

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. R.K. Malik, Sr. Advocate with
Mr. Samrat Malik, Advocate
for the petitioner.

Mr. Ram Tilak Redhu, DAG, Haryana.

JASPAL SINGH, J

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 his pension and other retiral benefits along-with interest at the rate of market rate.

2. Petitioner stood retired from service as District Social Welfare Officer on June 30, 2014 on attaining the age of superannuation in terms of rule 3.26 of CSR Volume-I, Part-I read with 2.2 (b) of CSR Volume-II vide order dated June 10, 2014 (P-1), which was conveyed to the petitioner vide

endorsement dated June 26, 2014. Subsequent to his retirement, FIR Nos. 112, 113, 114, dated February 23, 2015, under Sections 420, 467, 468, 471 and 120-B IPC were registered against the petitioner at Police Station, Karnal Civil Lines. Petitioner approached the concerned authorities by way of representation dated January 15, 2015 (P-2) for the release of his pensionary benefits accrued to him on account of his retirement but no substantive decision was taken and as such, he was constrained to prefer the instant petition.

3. The sole question which requires determination in the instant case is, whether on account of pendency of any criminal/departmental proceedings retiral benefits such as pension, commutation of pension, leave encashment and GPF etc can be declined or withheld. Such a question is came up for hearing before a Full Bench of this Court in the case **Dr. Ishwar Singh v. State of Punjab; 1994 (3) RSJ 543**; wherein, after having considered the various provisions of Rules particularly 9.14, 9.15, 2.2 (b) and 2.2 (c) of the Punjab Civil Services Rules, Volume II, the following observations were made in para 81 of the afore-said judgment, which reads as under:

“81. As a result of the above discussion, I would conclude as under:-

- (i) The Government has no right to withhold or postpone pension or the payment on account of commutation of pension. The State is bound to release 100 per cent pension at the time of superannuation, may be provisionally.*
- (ii) The Government can withhold the gratuity other retiral benefits except pension or postpone payment of the same during pendency of any enquiry.*
- (iii) Pension cannot be adversely affected before a finding of guilt*

is returned.

- (iv) *The Government can initiate departmental enquiry after long lapse before retirement, rather there is no limitation for initiating the departmental enquiry from the date of incident before retirement. The delay and the explanation for the same may reasonable be taken note of keeping in view its likelihood to cause prejudice to the delinquent if the enquiry is challenged in appropriate proceedings.*
- (v) *The enquiry proceedings cannot be quashed solely on the ground of long pendency.*
- (vi) *There is no effect of superannuation on the pendency of the enquiry proceedings.*
- (vii) *The recovery of the Government dues can be made from gratuity or other retiral benefits only.”*

4. A glance at the afore-said observations make it crystal clear that the pension of the petitioner cannot be withheld or postponed except gratuity nor any other benefit could be denied to him merely because some departmental proceedings or criminal proceedings are pending. The afore-said judgment was subsequently relied upon by a Division Bench of this Court in the case **B.S. Gupta vs. Uttar Haryana Bijli Vitran Nigam Limited & others; 2006 (8) SLR 690.**

5. Adverting to the facts of the case in hand, petitioner stood retired on June 30, 2014 on attaining the age of superannuation vide order dated June 10, 2014 (P-1), which was conveyed to him vide endorsement dated June 26, 2014. Though at the time of retirement departmental/disciplinary proceedings were pending against the petitioner and he has been facing the charge sheet under Rule 7 of Haryana Civil Services (Punishment and Appeal) Rules, 1987 for

major penalty vide memo. No. 514/SW(4)-2012, dated July 12, 2012 but till his retirement the said proceedings did not culminate. As far as registration of criminal cases is concerned, it was after his retirement. Thus, in view of settled proposition of law, it has observed that mere pendency of departmental enquiry or proceedings is itself no ground to withheld the pension, commutation of pension, leave encashment and GPF.

6. For the reasons recorded above, instant petition succeeds and respondents are directed to release 100% pension to the petitioner as well as amount of commutation of pension, leave encashment and GPF within a period of three months from the date of receipt of certified copy of this order. In case of non-compliance of afore-said direction, petitioner shall be entitled to interest @9% per annum after an expiry of three months period from the date of retirement of petitioner till its actual payment.

7. As far as the gratuity is concerned, petitioner shall be entitled to have recourse to it in the light of any order passed at the time of final conclusion of departmental proceedings or criminal cases.

NOVEMBER 16, 2017
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>