

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

CWP No. 7484 of 2016 (O&M)
Date of Decision: 18.05.2017

K.C. JHANJI

...Petitioner

VS.

PUNJAB AGRICULTURE UNIVERSITY, LUDHIANA AND OTHERS

...Respondents

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH.**

Present: Mr. Dhiraj Chawla, Advocate,
 for the petitioner.

 Mr. Deepak Agnihotri, Advocate,
 for the respondents.

KULDIP SINGH, J (ORAL)

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India praying for issuance of writ in the nature of writ of certiorari for setting aside the order dated 10.06.2014 (Annexure P-6) vide which the request of the petitioner for restoration of full pension w.e.f. 01.11.2016 instead of 01.06.2019 was rejected. The prayer has also been made for issuance of mandamus for directing respondents for releasing full pension w.e.f. 01.11.2016 instead of 01.06.2019 with all consequential benefits.

Brief facts of this case are that the petitioner retired as Accounts Officer from Punjab Agriculture University, Ludhiana on 31.10.2001. At the time of his retirement, no enquiry or charge-sheet was pending against him. However, he was allowed provisional pension on the ground that disciplinary proceedings are contemplated against him. He was also not

allowed to exercise his option for commutation of pension w.e.f. 01.11.2001. Subsequently, he was served with a charge-sheet on 22.04.2002. As a result of the regular enquiry, punishment order dated 05.05.2004 (*Annexure P-1*) was passed whereby a 1/4th cut in his pension was ordered. Aggrieved by the said order, the petitioner has challenged the charge-sheet, enquiry as well as the punishment order before this court by way of CWP No. 331 of 2005. Thereafter, this Court vide order dated 15.05.2007 (*Annexure P-3*), has set aside the said charge-sheet, enquiry report and the punishment order alongwith order of the appellate authority.

Now, claim of the petitioner is that he was to be granted commuted value of pension and since, he retired w.e.f. 31.10.2001, therefore, his full pension is to be restored.

The stand of the respondents as coming from the impugned orders dated 10.06.2014 and 22.02.2008 (*Annexure P-6 and P-7 respectively*) is that since, he was earlier allowed provisional pension and the commuted value of pension cannot be paid alongwith provisional pension, therefore, he was allowed provisional pension w.e.f. May 2004 and full pension shall be allowed after 15 years, which comes to 01.06.2019.

I have heard the learned counsel for both the parties and have carefully gone through the case file.

After going through the documents placed on file by the parties, I am of the view that once the charge-sheet and the punishment order is quashed by this Court, the petitioner is deemed to have retired from service w.e.f. 31.10.2001 i.e without any charge-sheet or enquiry. Therefore, for the purpose of commutation of pension for the period is to be started from

01.11.2001, though the commuted vale of pension was paid late in May 2004. Therefore, full pension of the petitioner has to be restored after 15 years which comes to 01.11.2016.

Now, the question would arise regarding the balance due on account of the commuted value of pension. Learned counsel for the petitioner has stated at bar that on account of the arrears on commutation of pension, the petitioner will be entitled to some amount and the respondents can adjust the remaining amount of commuted value of pension from the said arrears. In case, still any amount is due from the petitioner, the same can be deducted from his future pension.

It being so, petition is allowed to the extent that the petitioner shall be allowed full pension w.e.f. 01.11.2016. However, the balance, on account of commuted value of pension, can be adjusted in the arrears which become payable to the petitioner and if any payment is still left, the same can be adjusted in installments from the future pension of the petitioner.

Accordingly, the petition is allowed.

May 18, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

✓

Whether speaking / reasoned :

Whether Reportable :

Yes

/

No

✓

No