

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.2519 of 2016 (O&M)

Date of Decision: February 15, 2017

Harpal Singh

.....Appellant

versus

The Punjab State Warehousing Corporation and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Harit Sharma, Advocate, for the appellant.

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Surya Kant, J. (Oral)

The appellant assails the order dated 17.10.2016 vide which his writ petition challenging the order, stopping his pension, has been dismissed by learned Single Judge.

[2] The appellant was working as a Junior Engineer in the Punjab State Warehousing Corporation. While in service, FIR No.07 dated 08.01.2005 under Section 307, 326, 323, 324, 120-B, 148 and 149 IPC was registered against him. The name of appellant was kept in column No.2 of the charge-sheet filed under Section 173 Cr.P.C. but he was summoned under Section 319 Cr.P.C. to face trial and eventually was held guilty. On conviction, the appellant has been sentenced to life imprisonment vide judgment dated 09.10.2009.

[3] Meanwhile, the appellant had retired from service on 30.04.2009 on attaining the age of superannuation. The provisional pension had also been released to him.

[4] After the appellant's conviction, the Corporation served him

19.09.2012 stopped his pension as a result of conviction in the criminal case. The appellant challenged that order and his writ petition has been dismissed.

[5] It is urged on behalf of the appellant that show cause notice was issued under Rule 2.2 (b) of the Punjab Civil Services Rules, Volume-II whereunder pension can be withheld or withdrawn only if pecuniary loss is caused to the Government. Since in the instant case no such loss has been caused to the Corporation, it is contended that the impugned action is totally uncalled for.

[6] We are, however, not impressed by the contention. Firstly, the impugned action taken against the appellant is squarely falls within the four corners of Rule 2.2 (a) of the Rules (ibid) which reads as follows:-

“....2.2. (a) Recoveries from Pensions:- Future good conduct is an implied condition of every grant of pension. The Government, however, reserve to themselves the right of withholding or withdrawing a pension or any part of it if the pensioner is convicted of serious crime or be guilty of grave misconduct.

In a case where a pensioner is convicted of a serious crime, action shall be taken in the light of the judgment of the court relating to such conviction.

In a case not covered by the preceding paragraph, if the Government considers that the pensioner is prima facie guilty of grave misconduct, it shall before passing an order;-

- (i) serve upon the pensioner a notice specifying the action proposed to be taken against him and the grounds on which it is proposed to be taken and calling upon him to submit, within sixteen days of the receipt of the notice or such further time not exceeding fifteen days, as may be allowed by the

pension sanctioning authority, such representation as he may wish to make against the proposal; and
(ii) take into consideration the representation, if any, submitted by the pensioner under sub-clause(i).

Where a part of pension is withheld or withdrawn the amount of such part of pension shall not ordinarily exceed one-third of the pension originally sanctioned nor shall the amount of pension left to the pensioner be ordinarily reduced to less than forty rupees per month, having regard to the consideration whether the amount of the pension left to the pensioner, in any case, would be adequate for his maintenance.....”

(emphasis applied)

[7] It may be seen from the above-reproduced rule that “future good conduct' is an implied condition for the grant of pension. Further the rule specifically provides that in case the pensioner is convicted for a 'serious crime', action shall be taken in the light of the judgment of the court relating to such conviction. The appellant has been found guilty of offence of attempt to murder. He has been convicted for life. The gravity of offence and the corresponding sentence awarded to him surely brings the same within the ambit of a 'serious crime' and thus the action under challenge is fully supported by the cited rule.

[8] The action of the authorities is also protected by rule 2.2(b) of the rule (ibid) whereunder the Government is competent to with-hold or withdraw the pension or any part thereof if in the departmental proceedings the pensioner is found guilty of 'grave misconduct'. The nature of offence committed by the appellant surely amounts to a 'grave misconduct' and therefore also the impugned action is fully justified.

[9] Needless to say that if the appellant earns acquittal from a Superior Court, he will be entitled to stake his claim for restoration of pension.

[10] No case to interfere with the order under appeal is made out.

[11] Dismissed.

[SURYA KANT]
JUDGE

February 15, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No