

CWP No.4853 of 2016

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No. : 229

Civil Writ Petition No.4853 of 2016

Date of Decision: January 11, 2018

RADHA KRISHAN

..... PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

..... RESPONDENTS

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. Kanwaljeet Singh, Senior Advocate with
Mr. Abhishek Bajaj, Advocate,
for the petitioner.

Ms. Deepali Puri, Additional Advocate General, Punjab,
for the respondents.

. . .

Jaspal Singh, J. (Oral)

By virtue of the instant civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of Mandamus directing the respondents to grant provisional retiral pension and other pensionary benefits from the date of his superannuation on March 31, 2002.

2. The contention of learned counsel for the petitioner is that despite the fact that similarly situated person namely ASI Surinder Singh

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and some other persons have already been granted the provisional pension even after their conviction either under Section 302 IPC or for the commission of some other offences falling within the purview of the Indian Penal Code, yet no final decision is being taken by the respondents, even on the writ of demand served upon them by the petitioner dated July 25, 2015.

3. After a lengthy discussion on the matter and appraisal of the additional affidavit dated December 19, 2017 of Mr. Gautam Singal, PPS, Additional Deputy Commissioner of Police, Headquarters and Security, Police Commissionerate, Jalandhar, it has emerged that representation dated May 19, 2015 has already been forwarded by the Commissioner of Police, Jalandhar to the Director General of Police, Punjab, Chandigarh vide his letter No.38873, dated May 25, 2015, which is still pending disposal before the concerned authorities. Even subsequent thereto, a legal notice was also served upon the respondents on July 25, 2015 as asserted in the writ petition.

4. No doubt, petitioner was convicted and sentenced prior to his retirement and his case does not fall within the purview of Rule 9.14 of Punjab Civil Services Rules Vol. II. However, his case certainly falls within the ambit of Rule 2.2 (a) of Punjab Civil Services Rules Vol. II. If the aforesaid provisions are missing in the representation or legal notice served upon the respondents, respondents can take care of the provisions contained in Rule 2.2(a) of the aforesaid Rules and take a conscious decision with regard to representation/legal notice referred to above.

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5. Thus, without expressing any opinion on the merits of the case, instant petition is disposed of with the direction to Director General of Police, Punjab, Chandigarh to consider the claim of the petitioner set up in the aforesaid representation/legal notice and take a conscious decision, after affording an opportunity of personal hearing to the petitioner as early as possible but not later than a period of three months from the date of receipt of a certified copy of this order.

6. However, in case, the petitioner still feels aggrieved of any order(s) passed by the aforesaid authority, he shall be at liberty to approach this court.

January 11, 2018
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No