

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

218

CWP No.11596 of 2015

Date of decision: 06.03.2019

Duli Chand Rawat

..Petitioner

Vs.

State of Haryana & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parveen K. Kataria, Advocate
for the petitioner.

Mr. Charanjit Singh Bakhshi, Addl. AG, Haryana.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the prayer which is being made by the petitioner is for setting aside the order dated 09.01.2012 (Annexure P-5) by which the provisional pension of the petitioner has been stopped and the recovery of ₹3,63,621/-has been ordered from the petitioner.

The facts as have been mentioned in the present writ petition are that the petitioner was compulsorily retired on 30.05.2008. At the time of his retirement, there was FIR No. 185 dated 24.05.2007, under Sections 420/467/468/471 IPC registered against the petitioner was pending. Not only this, a charge sheet had also been served upon the petitioner on 02.05.2008 i.e. before the date of his retirement.

Petitioner challenged his order of compulsory retirement by filing CWP No. 10548 of 2008, which stands admitted and is pending before this Court for final adjudication. As per the

averments made in the writ petition, after the investigation, a cancellation report was submitted by the police on 20.02.2008 but the same was not accepted by competent Court of law and reinvestigation was ordered. Counsel for the petitioner states that no challan has been put up so far in the said FIR and, therefore, no notice of the said FIR can be taken, as the same is only an allegation at the moment. FIR in which challan has been filed at the time of the retirement, can be taken into consideration for stopping the pensionary benefits of the petitioner.

In respect of the charge sheet which was served upon the petitioner on 02.05.2008 and for the release of the pensionary benefits the petitioner filed CWP No. 8859 of 2010, which according to the petitioner has been admitted and is pending consideration before this Court.

Counsel for the petitioner states that after enquiry was completed in respect of the charge sheet dated 02.05.2008, a show casue notice was issued to the petitioner and vide order dated 09.01.2012, the punishment of recovery of ₹3,63,621/- was imposed upon the petitioner. Against the said order, the petitioner filed an appeal on 17.01.2012 and the copy of the appeal and the reminders have been attached by the petitioner as Annexure P-6 collectively.

Counsel for the petitioner states that the respondents are sitting over the appeal for the reasons best known to them and are not deciding the same.

In reply, the factual averments made hereinbefore have been admitted and it has been stated that amount of ₹ 3,63,621/-

has been withheld keeping in view the punishment imposed upon the petitioner.

The averment that the petitioner filed an appeal, has been denied by the respondents in their reply. In respect of the denial of receipt of the appeal, in replication, the petitioner has given even the diary number by which the said appeal was registered by the respondents. That be so, it cannot be said that the petitioner never filed an appeal, once even the diary number has been given by the petitioner in the replication.

Keeping in view the above, the present writ petition is disposed of with the directions to the respondents to decide the appeal filed by the petitioner against the imposition of the punishment of recovery of ₹3,63,621/- imposed vide order dated 09.01.2012 within a period of three months from the date of receipt of copy of this order.

Let order so passed be conveyed to the concerned authority.

March 06, 2019

Poonam Sharma

**(HARSIMRAN SINGH SETHI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No