

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-2645 of 2015 (O&M)

Date of decision: 19.09.2019

Avinash Bala Sharma

.... Petitioner

versus

State of Haryana and others

.... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.P. Chahar, Advocate
for the petitioner.

Ms. Safia Gupta, AAG, Haryana.

HARSIMRAN SINGH SETHI, J.

In the present writ petition, the grievance which is being raised by the petitioner is that vide impugned order dated 04.07.2014 (Annexure P/16), the pension of the petitioner, which she was receiving after her retirement has been stopped. The grievance of the petitioner is that even though, the petitioner has not been held guilty either in any departmental enquiry or by any competent Court of law, still without any valid justification, only by citing the pendency of the proceedings against her, the pension of the petitioner was stopped by the respondents. On the last date of hearing, following order was passed:-

“Counsel for the petitioner argues that the petitioner retired from service on 30.06.2013 and, thereafter, she has been given the pensionary benefits including the grant of pension. Counsel for the petitioner argues that without giving any show cause notice or serving any charge sheet upon the petitioner, the respondents on 31.07.2014 stopped her pension. Counsel for the petitioner states that even as of today, there is no order by any competent authority of the department, wherein the petitioner is held

guilty of any misconduct, though, a charge sheet was served upon her in the year 2016 which proceedings are still pending and no final order has been passed in the same. Counsel further states that there is no order by any competent Court of law, whereby, the petitioner has been held guilty of any criminal misconduct under the provisions of Indian Penal Code.

Counsel for the respondents on instructions from Mr. Surender Singh, DTC, Sales Tax, Ambala states that it is correct that there is no order by which the petitioner has been held guilty in any of the proceedings by the competent authority or any competent Court of law.

If that be so, then under what provisions of law, the pension of the petitioner was stopped by the respondents on 31.07.2014. Merely, a two line order has been passed by the respondents stopping the pension of the petitioner.

Let an affidavit be filed within two weeks by the respondents giving details, as to under which rules, the pension of the petitioner has been stopped by respondents w.e.f. 31.07.2014. In case, it is found that respondents have misused their authority in stopping the pension of the petitioner, an appropriate order will be passed not only against the department but also against the concerned officer, who has passed the order, exceeding his jurisdiction by stopping the pension of the petitioner.

Adjourned to 19.09.2019.

In pursuance to the said order, respondents have filed affidavit of Dr. Amit Kumar Aggarwal, IAS, Excise and Taxation Commissioner, Haryana, in which it has been stated that order dated 04.07.2014, by which the pension of the petitioner was withheld was not in accordance with Rule 2.2(a) of Punjab Civil Services Rule, Vol-II and the same has been withdrawn vide order dated 12.09.2019 passed by the competent authority.

Relevant paragraph of the order is as under:-

“In view of the order dated 03.09.2019 passed by Hon'ble Punjab and Haryana High Court in CWP-2645 of 2015 titled as Avinash Bala Sharma vs. State of Haryana, order dated 04.07.2014, vide which pension of retired official was withheld, has been re-examined and not found in accordance with Rule 2.2(a) of Punjab CSR Volume II. Therefore, the order dated 04.07.2014 is hereby withdrawn and the pension to Smt. Avinash Bala is hereby ordered to be released from the date it was withheld.

Counsel for the petitioner states that the grievance of the

petitioner as raised in the present writ petition stands redressed. The only prayer made is that the pension of the petitioner, which has been withheld for the last about five year, be released in a time bound manner.

Counsel for the respondents states that the matter has already been forwarded to the Accountant General, Haryana for releasing the pension of the petitioner and keeping in view the order dated 12.09.2019, all the arrears of pension as well as regular pension as being granted, will be released to the petitioner within a period of three weeks from today. Learned counsel for the respondents prays that liberty be granted to appropriate action, if any, will be taken keeping in view the outcome of the proceedings pending against the petitioner, at the appropriate stage, as and when required.

Counsel for the petitioner states that in view of the above, he does not press the present writ petition any further and the same may be disposed of as such.

The present writ petition stands disposed of having been not pressed with liberty to the respondents as prayed.

(HARSIMRAN SINGH SETHI)
JUDGE

19.09.2019
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| 1. | Whether speaking/non-speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |