

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 836 of 2018 (O&M)
Date of decision : 25.09.2019

Rajesh Kumar

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Raman Goklaney, Advocate for the petitioner.

Mr. H.S. Sitta, Assistant Advocate General, Punjab.

Harsimran Singh Sethi, J. (Oral)

CM-6036-CWP-2019

Present application has been filed for placing on record the documents as Annexures P-9 and P-10 (Colly).

Application is allowed and documents as Annexures P-9 and P-10 (Colly) are taken on record.

CWP-836-2018

In the present writ petition, the prayer of the petitioner is for setting aside the charge-sheet dated 20.12.2016 (Annexure P-1) and also for release of the pensionary benefits of the petitioner as the petitioner has already attained the age of superannuation on 31.08.2016.

Learned counsel for the petitioner argues that on the day when the petitioner attained the age of superannuation on 31.08.2016, there was nothing pending against him, which would entitle the respondents to

withhold the pensionary benefits. In the FIR which was registered against the petitioner bearing FIR No. 12 dated 1.08.2014, the petitioner had already been acquitted on 25.02.2016 i.e. prior to the date of retirement. Despite the fact that there was no impediment in the release of the pensionary benefits, the benefits for which the petitioner became entitled for after attaining the age of superannuation, were withheld.

Learned counsel for the petitioner states that after the retirement, petitioner was issued a charge-sheet on 20.12.2016 (Annexure P-1), which was beyond the jurisdiction of the respondents. Learned counsel states that during the pendency of the said petition, the said charge-sheet has also been taken to the logical end and vide order dated 04.12.2018 the said charge-sheet has also been filed by the respondents and copy of the said order has been placed on record as Annexure P-9. Learned counsel for the petitioner further states that after dropping of the said charge-sheet, once again there are no proceedings pending against the petitioner, which would entitle the respondents to withhold the pensionary benefits of the petitioner. He prays that a direction be issued to the respondents to release the pensionary benefits of the petitioner forthwith.

Learned counsel for the respondents argues that though the petitioner was acquitted in FIR No. 12 dated 01.08.2014 prior to his retirement but there was another FIR No. 17 dated 29.01.2016 registered against the petitioner, which was pending at the time of his retirement. Subsequent to his retirement, the petitioner has been acquitted in the said FIR No. 17 dated 29.01.2016 also on 17.09.2016. Learned counsel for the respondents on instructions from Judge Singh, ASI, O/o AIG, GRP Punjab,

Patiala states that there are no other proceedings pending against the

petitioner except the appeal, which has been preferred against the order of acquittal of the petitioner, which is pending before this Court. Learned counsel for the respondents very fairly states that the pendency of that appeal against the acquittal of the petitioner cannot be treated as a proceeding pending against the petitioner so as to withhold the pensionary benefits of the petitioner.

Learned counsel for the respondents states that keeping in view the facts and circumstances of this case, which have been noticed above, respondents will pass appropriate order in respect of the release of the pensionary benefits of the petitioner within a period of 3 months. While passing the said order, respondents will also consider the claim of petitioner for grant of interest on the payments which are to be released.

In view of the above statement, respondents are directed that if the petitioner is found entitled for the benefit as claimed in respect of the service rendered by him, the same shall be released to the petitioner within a period of one month thereafter. It is further directed that all the concerned including the office of the Accountant General shall be bound to release all the benefits to the petitioner once the administrative department comes to the conclusion that the petitioner is entitled for the benefits in respect of the service rendered by him.

Writ petition stands disposed of in above terms.

September 25, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes
Whether reportable? Yes