

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

227

CWP-16924-2018

Date of Decision : February 19, 2020

RAJESH KUMAR GUPTA

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. R.K.Malik, Senior Advocate with
Mr. Digvijay Singh, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

NIRMALJIT KAUR, J. (Oral)

The prayer in the present petition is to set-aside the impugned orders dated 3.5.2018/8.5.2018/10.5.2018 (Annexure P-11) vide which the respondents had decided to impose the punishment of 100% cut in pension.

While praying for setting aside the impugned orders, learned counsel for the petitioner inter-alia contended that the said order was passed without taking into consideration Rule 2.2(a) of the Punjab Civil Services Rules vide which it was necessary to serve notice justifying the action proposed to be taken against the employee and also after calling for the comments of the employee before taking a final decision. In the present case, neither any notice was issued and nor any representation or the comments were invited before passing of the impugned orders. The entire pension was withheld, whereas, it cannot be more than 1/3rd in view of Rule 2.2(a) of the Punjab Civil Services Rules. Reliance is

placed on the judgment rendered in the case of **Shankar Lal Vs. State of Haryana and others**, LPA No.427 of 2013 decided on 12.11.2014 which was allowed while holding as under:-

“Where a part of pension is withheld or withdrawn the amount of such part of pension shall not ordinarily exceed one-third of the pension originally sanctioned nor shall the amount of pension left to the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 petitioner, in any case, would be adequate for his maintenance.”

After perusing the reply as also going through the impugned orders, it is evident that the petitioner was not granted any opportunity of making a representation against any proposed punishment and nor Rule 2.2(a) was taken into consideration. In case, the Rule 2.2(a) had been taken into consideration, the procedure would have been followed as laid down in the said Rule and appropriate order of punishment would have been passed in terms of Rule 2.2(a).

Accordingly, the present writ petition is allowed and the orders dated 3.5.2018/8.5.2018/10.5.2018 (Annexure P-11) are set-aside. The matter is remanded back to the authority to decide the same afresh after granting an opportunity to represent as well as hearing.

Needful be done within three weeks from the receipt of the certified copy of this order. In case, the authority comes to the conclusion that the petitioner was entitled to the part of the pension as stipulated in Rule 2.2(a), the same shall be disbursed forthwith and the

petitioner shall also be held entitled to the interest @ 6% from the date it was due to him till the same is finally disbursed. Otherwise, speaking order shall be passed.

February 19, 2020
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(NIRMALJIT KAUR)
JUDGE

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