

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

(211)

**CWP-26803-2015**

**Date of Decision : October 10, 2022**

**Jamat Ali**

**.. Petitioner**

**Versus**

**Accountant General Haryana and others**

**.. Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Jitender Dhanda, Advocate, for the petitioner.

Mr. Sandeep Singh Mann, Addl. Advocate General,  
Haryana.

Mr. Kartar Singh Malik, Advocate, for respondents No. 2 to 4.

**HARSIMRAN SINGH SETHI J. (ORAL)**

In the present writ petition, the grievance of the petitioner is that the impugned order dated 04.06.2015 (Annexure P-2) passed by the respondents by which, the pensionary benefits of the petitioner have been withheld permanently, is beyond their jurisdiction.

As per the facts mentioned in the petition, the petitioner was appointed as Team Mate in the year 1975 and thereafter promoted as Assistant Lineman in the year 1980. In the year 2001, the petitioner was promoted as Lineman and thereafter as a Fireman and ultimately, the petitioner attained the age of superannuation on 30.04.2015 and retired. At

the time of the retirement of the petitioner, there was one charge-sheet pending against the petitioner, which was issued to him on 03.01.2011. While in service, the petitioner was also facing criminal proceedings under the Prevention of Corruption Act for which, he was convicted by the competent Court of law. On 21.02.2013, he was sentenced to undergo two years imprisonment. As no action was taken against the petitioner despite conviction under the Prevention of Corruption Act, petitioner attained the age of superannuation on 30.04.2015 and retired but the said retirement was made subject to the final outcome of the departmental proceedings. Vide order dated 04.06.2015 (Annexure P-2), which was passed after two months of the retirement, complete pensionary benefits of the petitioner were withheld except the release of the provident fund, which order is under challenge in the present writ petition.

After notice of motion, the respondents have filed the reply wherein, the respondents have stated that the petitioner was convicted on 21.02.2013 by the competent Court of law under the Prevention of the Corruption Act and a charge-sheet was already pending at the time of petitioner's retirement and hence, exercising power under Rule 2.2 (a) of the Civil Services Rules, deciding the said charge-sheet, the retiral benefits were withheld subject to the release of the GPF amounting to Rs.2,39,567/-.

As per the respondents, the respondents were well within their jurisdiction to withhold the pensionary benefits of the petitioner under Rule 2.2 (a) of the Civil Services Rules.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The respondents have conceded a fact that despite being convicted under the Prevention of Corruption Act, no order was passed by the respondents taking action under Section 311 of the Constitution of India. Further, the petitioner was retired on attaining the age of superannuation on 30.04.2015 only with the condition that the same will be subject to the criminal as well as disciplinary proceedings pending against him. On the disciplinary proceedings, the impugned order dated 04.06.2015 (Annexure P-2) has been passed by which, the retiral benefits of the petitioner has been withheld. According to the respondents, the power envisaged under Rule 2.2 (a) of the Civil Services Rules has been invoked for passing the said order. Rule 2.2 (a) of the Civil Services Rules, which has been invoked by the respondents while passing order dated 04.06.2015 (Annexure P-2) is as under:-

*“ Future good conduct is an implied condition of every grant of pension. The appointing authority reserve to itself the right of withholding or withdrawing a pension or any part of it if the pensioner be convicted of serious crime or be guilty of grave misconduct. ”*

A bare perusal of the same would show that under the said Rule, the right to withhold or to withdraw the pension has been vested with the authorities concerned. The pensionary benefits includes more benefit than the award of pension. That being so, the power which only gives the jurisdiction to withhold the pension, has been exercised but the same has been exercised beyond jurisdiction as the complete pensionary benefits of the petitioner have been stopped.

Keeping in view the above, though the impugned order dated 04.06.2015 (Annexure P-2) is set aside but the respondents are given liberty

to pass a fresh order in accordance with law keeping in view the disciplinary proceedings initiated vide charge-sheet dated 03.01.2011 and also the conviction of the petitioner under the Prevention of Corruption Act. The release of the pensionary benefits will be subject to the passing of the fresh order by the respondents. Before passing any order, the petitioner be given liberty to present his case with regard to proposed action which the respondents decide to undertake by giving due show cause notice and due opportunity to defend himself.

The present writ petition is allowed in above terms.

**October 10, 2022**

*harsha*

**(HARSIMRAN SINGH SETHI)**

**JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes