

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

\*\*\*\*

**CWP-8569-2017**

**Date of Decision: 06.07.2022**

Bhupinder Raj Parshad

..... Petitioner

Versus

State of Punjab and others

..... Respondents

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

Present: Ms. Satwant Mehta, Advocate,  
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

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

The present petition has been filed challenging the impugned order dated 10.10.2016 (Annexure P-2), vide which order, the petitioner has been dismissed from the service by the respondent-Department, after six years of his retirement.

As per the pleadings, the petitioner got retired as an Inspector Grade-I from the services of the respondent-Department upon attaining the age of superannuation, i.e. on 30.06.2010. At the time of retirement, the petitioner was facing the proceedings with respect to FIR No.38, dated 21.08.2009, registered under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988, at Police Station Vigilance Bureau, Amritsar. The petitioner was granted 100% provisional pension upon his retirement by the respondent-Department. The petitioner was later on convicted in the said FIR No.38 dated 21.08.2009 by the competent Court of law vide order dated

22.09.2015, which order of conviction has been challenged by the petitioner

by filing an appeal before this Court, which case is pending consideration as of now.

Keeping in view the said conviction of the petitioner, the respondents passed an impugned order dated 10.10.2016 (Annexure P-2), dismissing the petitioner from the services of the respondent-Department and that too with effect from the date of his retirement, i.e. 30.06.2010. The said impugned order is under challenge in the present petition.

After notice of motion, the respondents have filed the reply, wherein they have stated that as the petitioner was convicted in the criminal case, arising out of FIR No.38 dated 21.08.2009, by the competent Court of law vide order dated 22.09.2015, therefore, the petitioner has been dismissed from the service of respondent-Department, with effect from the date of his retirement, i.e. 30.06.2010.

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

The dismissal of an employee can be ordered by a Department keeping in view the rules governing the service of the said employee. An employee, who is in service, can be dismissed from the service in case the same is permissible under the rules. In the present case, the petitioner had already retired from the service of the respondent-Department in the year 2010 and there was no master-servant relationship between the respondent-Department and the petitioner in the year 2016 so as to give jurisdiction to dismiss the petitioner from service and that too retrospectively. Further no rule has been cited before this Court, which gives authority to the respondent-Department to dismiss a retired employee. Every authority has to be exercised by the respondent-Department, keeping in view the

jurisdiction given to the Department under the rules governing the said issue. In the absence of any authority cited before this Court with regard to the fact that a retired employee can be dismissed from the service, the order dated 10.10.2016 (Annexure P-2), passed by the respondents, dismissing the petitioner from the service retrospectively from the date of his retirement, cannot be sustained.

At this stage, learned State counsel submits that the State has power to withhold the pensionary benefits of the petitioner keeping in view Rule 2.2-A of the Punjab Civil Services Rules, according to which Rule, the future good conduct of the pensioner is must and in case the pensioner is convicted of a serious crime, appropriate action can be taken against him by the authorities concerned.

The said rule is not in dispute, but the action vide order dated 10.10.2016 (Annexure P-2) has not been taken by the respondent-Department under the said Rule. The respondent-Department dismissed the petitioner from service retrospectively with effect from the date of his retirement, i.e. 30.06.2010, rather than taking action qua the admissible pension, being granted to the petitioner.

Keeping in view the above, the impugned order dated 10.10.2016 (Annexure P-2) is set aside. But, the respondents are at liberty to pass appropriate speaking order afresh as permissible under the rules governing the service of the petitioner with regard to the fact as to whether after the conviction, the petitioner is entitled for the grant of pension or not.

Let the said order be passed by the authorities concerned within a period of two months from the date of receipt of the copy of this order and in case after the decision, the petitioner is found entitled for the grant of

benefit of pension to him, the same be also released to him within a period of four weeks thereafter.

Further, the petitioner is not extended the benefit of arrears of pension as of now, for the reason that the Department concerned has been given liberty to pass appropriate order qua the said aspect.

**06.07.2022**

*Apurva*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No