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

**CWP No.4854 of 2021(O&M)
Date of Decision:27.01.2023**

Parshu Ram Goel

......Petitioner

Vs

State of Haryana and others

.....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Satyavir Singh Yadav, Advocate
for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

Mr. APS Sekhon, Advocate
for respondent No.3.

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RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari, quashing the order dated 22.04.2016 passed by the respondent No.2, thereby putting a cut of 50% in the pension of the petitioner. The petitioner has also assailed the appellate order dated 16.09.2020 passed by the respondent No.1, upholding the order dated 22.04.2016 passed by the respondent No.2.

[2]. The petitioner was working as Junior Engineer in the office of Executive Engineer/CAD Division, Jind. The petitioner was involved in a criminal case bearing FIR No.16 dated 13.09.2011 for the offences under Sections 7 and 13 of the Prevention of Corruption Act in Police Station SVB, Hisar. The petitioner was suspended. He was reinstated, pending departmental enquiry. The petitioner ultimately retired from the Government Service on attending the age of superannuation on 31.01.2012. All the services benefits including pension and family pension were released. The petitioner was charge-sheeted under Rule 7 read with Rule 2.2.(b) of the Punjab Civil Services Rules, Volume II applicable to the State of Haryana on 21.01.2013. The petitioner was convicted and was sentenced for the offences under Sections 7/13 of the PC act with default mechanism in respect of non-payment of fine.

[3]. Against the order of conviction/sentence dated 13.01.2014, the appeal of the petitioner is pending in the High Court, wherein the sentence of the petitioner has been suspended. The respondent No.2 vide order dated 22.04.2016 has imposed a cut of 50% in the monthly pension of the petitioner.

[4]. Aggrieved by the said order, the petitioner filed an appeal before the respondent No.1 and the said appeal has also been dismissed by the Appellate Authority vide order dated

16.09.2020. That is how, the present petition came to be filed, assailing the aforesaid orders in this Court.

[5]. The grievance of the petitioner is that under Rule 2.2(a) of the Punjab Civil Services Rules, recovery from the pension cannot be made of the amount exceeding 1/3rd of the gross pension. Learned counsel for the petitioner has placed reliance upon ***LPA No.427 of 2013*** titled ***Shankar Lal Vs. State of Haryana and others*** decided on 12.11.2014 by the Division Bench of this Court. Rule 2.2(a) of the Punjab Civil Services Rules as reproduced in ***Shankar Lal's case (supra)*** is as under:-

> "2.2 (a) Future good conduct is an implied condition of every grant of a pension. The Government reserve to themselves the right of withholding or withdrawing a pension or any part of it the pensioner be convicted of serious crime or be guilty of grave misconduct. In a case where a pensioner is convicted of a serious crime, action shall be taken in the light of the judgment of the court relating to such conviction.
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> In a case not covered by the preceding paragraph, if the Government considers that the pensioner is prima facie guilty of grave misconduct, it shall before passing an order:
>
> (i) Serve upon the pensioner a notice specifying the action proposed to be taken against him and the grounds on which it is proposed to be taken and calling upon him to submit, within sixteen days of the receipt of the notice or such further time not

exceeding fifteen days, as may allow by the pension sanctioning authority, such representation as he may wish to make against the proposal; and

(ii) Take into consideration the representation, if any, submitted by the pensioner under sub-clause

(i). 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."

[6]. On the strength of aforesaid judgment, learned counsel for the petitioner submits that only a part of pension is to be withheld and such part of pension shall not ordinarily exceed 1/3rd of the total monthly pension.

[7]. Learned counsel for the petitioner has also placed reliance upon ***Baljinder Kaur Vs. State of Haryana and others, 2021(3) SLR 9*** decided on the same lines. Para No.6 of the said judgment reads as under:-

Even otherwise, Rule 2.2(a) provides that the recovery from pension cannot be made of the amount exceeding one-third of the gross pension and it has been time and again settled by this Court that the complete pension cannot be stopped and reliance in this regard can be placed upon a judgment of the Division Bench of this Court rendered in the case of ***Shankar Lal vs. State of Haryana and others, LPA No.427 of 2013,*** *decided on*

12.11.2014, wherein an employee was convicted under the Prevention of Corruption Act, 1988 for a period of three years. The entire pension was withheld under Rule 2.2(a) of the Punjab Civil Services Rules Volume II. The learned Single Judge had refused to interfere in the impugned order and the intra-court appeal was carried before the Division Bench, which noticed that the cut on pension could not exceed one-third of the gross pension and accordingly, the impugned order was set aside for reconsideration of the issue. The relevant part of the aforesaid judgment reads as under:-

> *"Clause (ii) of the aforesaid Rule clearly stipulates that the entire pension of an employee under the said Rule cannot be withheld or withdrawn and only a part of pension is to be withheld or withdrawn and the amount of such part of pension shall not ordinarily exceed one-third of the total pension. In our opinion, the Authority while passing the order dated 22.3.2012 has not considered this aspect of the matter and in an arbitrary manner has withheld the entire pension of the appellant. Thus, the impugned order dated 22.3.2012 passed by the Authority is liable to be quashed.*
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> *Accordingly, this appeal is allowed and order dated 22.3.2012 passed by the Authority is set aside and the matter is remitted to the Authority to re-consider the issue in the light of the aforesaid aspect and then pass the order*

> *in accordance with law after hearing the appellant within a period of three months from today. In case, the Appellate Authority withholds part of the pension according to the aforesaid Rule, the remaining amount of pension is directed to be paid to the appellant immediately within a period of one month of the decision of the authority failing which the appellant shall also be held entitled to interest on the said amount in accordance with law."*

[8]. Learned counsel has further relied upon ***Ajit Sigh (Deceased) Vs. Accountant General (A&E), Punjab and others, (2021) 3 SCT 665***, wherein similar observations were made by this Court and it was held that the pension can be reduced partly and the same cannot be reduced more than 1/3rd of the monthly pension originally sanctioned. Learned counsel further submitted that in case of Ram Niwas Kundu, SDO in the same department, the aforesaid principle has been adopted and a cut of 30% in the monthly pension was imposed.

[9]. Learned State counsel however argued that the right of the department is absolute and keeping in view the complicity/misconduct of the employee, even 100% pension can be forfeited.

[9]. Having heard learned counsel for the parties, I find that no deviation can be made from the principles as discussed in

the aforesaid precedents. The cut imposed by the respondents to the extent of 50% in the monthly pension of the petitioner is wholly on the higher side, keeping in view the misconduct of the petitioner.

[10]. In the facts and circumstances of the case, it would be just and appropriate to follow the aforecited judgments and reduced the cut of 50% to a cut of 30% in the monthly pension of the petitioner. Impugned orders are accordingly set aside.

[11]. This petition is disposed of accordingly. Normal consequences to follow.

(RAJ MOHAN SINGH)
JUDGE

27.01.2023
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No