

2023:PHHC:116075

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-4518-2020 (O&M)
Date of Decision:-4.9.2023

Resham Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gobind Rai, Advocate for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 25.11.2019 (Annexure P-4) passed by respondent No.2 – Senior Superintendent of Police, Moga vide which his representation of the petitioner seeking full pensionary benefits, has been declined.
2. Shown of unnecessary details, the facts, in nutshell, are that the petitioner while serving as Head Constable in Punjab Police came to be involved in FIR No.279 dated 4.12.2015 registered at Police Station Kapurthala City, District Kapurthala under Sections 223, 224 and 225 of Indian Penal Code, wherein it was alleged that the petitioner alongwith another official had facilitated an accused to escape from custody. Accordingly, departmental proceedings were initiated, wherein upon finding the petitioner guilty, punishment of ‘censure’ was imposed. However, upon investigation of the criminal case by the police,

while the petitioner was found innocent, challan was presented against co-accused Navdeep Singh and charges were framed by the Trial Court against said Navdeep Singh on 5.11.2018. The trial qua the said co-accused is stated to be still pending.

3. Learned counsel representing the petitioner submitted that the petitioner had got voluntary retirement w.e.f. 28.2.2019. It has also been submitted that the petitioner as on date is getting provisional pension to the extent of 90% and that some other retiral benefits have also been withheld on grounds of lodging of the FIR in question, whereas he has already been found innocent in the said case.
4. The State in its reply dated 4.1.2023 has taken the following stands:

“In the meantime, petitioner got voluntary retirement on 28.2.2019 and as per para No.9.14 of Punjab CSR Vol-2, in case any department or judicial proceeding is pending against any employee then his pension cannot be sanctioned by the department. So, vide order No.5706-10/B Pension dated 16.5.2019 passed by the SSP, Moga on the very next day of retirement of the petitioner his 75% provisional pension amounting to Rs.21,708/- per month was released and on 28.6.2019 the Bill of GIS amounting to Rs.32,588/- was issued by the department and same was encashed in the account of petitioner vide TV No.31/25.07.2019. After that Bill of GPF of the petitioner amounting to Rs.14,76,437/- was issued on 10.04.2019 and same was transferred in the account of petitioner vide TV No.146 dated 16.4.2019.”

5. A perusal of the aforesaid stand would indicate that the State has withheld the part of retiral benefits of the petitioner on the premises that in terms of para No.9.14 of Punjab Civil Services Rules, Volume - II, the petitioner cannot be extended such benefits on account of pendency of judicial proceedings. However, the said stand is rather misconceived inasmuch as though the

petitioner was involved in the said FIR but has been found ‘innocent’ during investigation and chargesheet under Section 173 Cr.P.C. was never presented against him and the proceedings, which are pending in respect of the said FIR, are pending against the co-accused Navdeep Singh since the year 2018. No step seems to have been taken by the respondents so as to seek summoning of the petitioner as an accused with the aid of Section 319 Cr.P.C. till date. In these circumstances, the respondents are not justified in withholding a part of the retiral benefits and the petitioner is entitled to get full pension and other retiral benefits, which may have been withheld till date.

6. The instant petition, as such, is allowed and the respondents are directed to pass necessary orders to extend complete retiral benefits as the petitioner may be entitled. The arrears in respect of the same be paid within a period of 4 months from today alongwith interest @5% per annum. In case, the said arrears are not paid within the stipulated period, the respondents shall be liable to pay interest @10% per annum.

4.9.2023

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No