

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.278 of 2023 (O&M)
Date of Decision: 11.12.2023

Sarbjit Singh KandhariAppellant
versus
State of Punjab and othersRespondents

CORAM: HON'BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AMAN CHAUDHARY, JUDGE

Present : Mr. Saurabh Arora, Advocate, for the appellant.
Ms. Lavanya Paul, Deputy Advocate General, Punjab.

RITU BAHRI, ACTING CHIEF JUSTICE (oral)

The reply dated 22.11.2023 filed by the respondent-State of Punjab is taken on record.

2. The appellant has filed this appeal against the judgment dated 24.01.2023 passed by the learned Single Judge whereby the petition filed by the appellant was dismissed.

3. The stand taken by the respondents in the reply dated 22.11.2023 is that due to pendency of investigation in FIR No. 124 dated 22.07.2016 registered under Section 13(2) of the Prevention of Corruption Act, 1988 and under Section 384 of the Indian Penal Code, 1860, the retiral benefits i.e. gratuity and leave encashment have not been released to the appellant till date. A perusal of the reply further shows that the investigation in the present FIR has already been completed and the challan is in the process of being presented in the competent Court.

4. The FIR in the present case was registered 22.07 2016 and till today i.e. 11.12.2023 no challan has been presented in the competent Court and the investigation in the FIR is pending for almost six years and during this period the appellant has retired from service on 31.12.2019.

5. Learned counsel for the appellant has made a reference to the judgment rendered by the Supreme Court in *Union of India vs. K.V.Jankiraman 1991(3) SCT 317* where in paras-16 and 17 of the judgment it has been observed that it is only when a charge-memo in a

disciplinary proceedings or a charge-sheet in a criminal prosecution is issued to the employee, that it can be said that the departmental proceedings/criminal prosecution is initiated against the employee. In the present case till date no challan in the FIR in question has been presented in the competent Court as per the reply filed by the respondents dated 23.11.2023 and non presentation of challan would amount to say that no proceedings are pending in any Court and injustice would be caused to an employee if retiral benefits are not released to him on account of pendency of any proceedings in the competent Court.

6. Learned State counsel appearing on behalf of the respondent-State of Punjab submits that no departmental proceedings or any proceedings before the competent Court are pending against the appellant. She further submits that no departmental proceedings were initiated against the appellant keeping in view the instructions dated 30.05.2014.

7. In view of the above facts and circumstances and the observations made by the Supreme Court in the judgment UOI vs. K.V.Jankiraman (supra), the present appeal is allowed and a direction is being issued to the respondents to release the retiral benefits i.e. leave encashment and gratuity to the appellant with interest at the rate of 9% from the date of filing of the petition till its realization.

Since main appeal itself has been decided, no orders are required to be passed in CM No. 804 of 2023.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

11.12.2023
ravinder

Whetherspeaking/reasoned	√Yes/No
Whetherreportable	Yes/No√