

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No. 322 of 2023 (O&M)

Date of Decision: 23.03.2023

Ranjit Singh, Ex-Constable

.....Appellant

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present : Mr. Harjeet Singh Minhas, Advocate, for the appellant.

Mr. Arjun Sheoran, Deputy Advocate General, Punjab.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

CM No. 932-LPA of 2023

For the reasons mentioned in the application, delay of 14 days in filing the appeal is condoned. Application stands disposed of.

LPA No. 322 of 2023 (O&M)

This appeal has been filed by the appellant against the impugned order dated 23.01.2023 passed by the learned Single Judge in Civil Writ Petition No. 376 of 2023 whereby the petitioner's claim for grant of pension has been dismissed.

Brief facts leading to the filing of the petition are that the petitioner was working as a Constable with the respondent-State of Punjab. On 21.04.1994, an FIR No. 52 under Sections 302 of the Indian Penal Code and 27 of the Arms Act was registered against him at Police Station Kotwali, District Barnala. Vide judgment dated 04.04.1997 passed by the trial Court, the appellant was convicted and sentenced to undergo life imprisonment and the aforesaid order has also been affirmed by the High Court in Criminal Appeal-359-DB-1997 vide judgment dated 21.11.2005.

It is pertinent to mention here that the appellant was dismissed from service vide order dated 20.05.1997 on account of the aforesaid FIR registered against him. This order of dismissal was also affirmed by the Appellate Authority vide order dated 06.07.2017 and the revision petition filed against the said order was also rejected vide order dated 29.01.2018. Even the appeal filed against the said order has also been dismissed by the Appellate Authority vide order dated 01.08.2018. It is pertinent to note that these orders have not been challenged by the appellant and he has only prayed for grant of pension and for quashing the dismissal order dated 20.05.1997 by way of this petition filed in December, 2022. It is conceded that in the absence of any challenge to the orders in appeals before the departmental Appellate Authorities, the validity of his dismissal from service cannot be gone into.

Learned counsel for the appellant submits that the authorities had denied pension to the appellant in view of the provisions of Rule 2.5, Vol.II of Punjab Civil Services Rules, 1970, though the appellant has an excellent service record and has been awarded Commendation Certificates several times. It is submitted that the appellant has rendered more than the qualified service prescribed under the Civil Services Rules i.e. nearly 20 years and in such circumstances the authorities be directed to take a sympathetic view by applying Rule 2.2 of the Rules in the matter and grant him pension as his family is suffering severe penury and education of the children is also suffering.

We have heard learned counsel for the appellant at length and perused the record as well as the impugned order passed by the learned Single Judge.

Rule 2.5 of the Rules of 1970 provides that “*a government servant who is dismissed for any reason of misconduct, inefficiency or insolvency would not be granted pension*”. The learned Single Judge taking note of the aforesaid aspect has rejected the claim of the appellant. Learned Single Judge has also rejected the claim of the appellant for considering his case under the provisions of Rule 2.2 Vol.II of Punjab Civil Services Rules, 1970. The reliance placed by learned counsel for the appellant before the learned Single Judge on the decision in the case of ***Prem Chand Dhand vs. State of Punjab and another 2019(4) SLR 683***, has also been rejected on the ground that the judgment deals with Rule 2.2 of the Rules and not 2.5 of the Rules and that Rule 2.2 (supra) deals with cases where a person, who is drawing pension post retirement and then commits misconduct, then in such cases there is a discretion vested with the respondent-authorities to reduce the pension to a certain extent which are not the facts of the present case. Learned Single Judge has also observed that Rule 2.2 (supra) is not applicable in the petitioner’s case as the petitioner was not a retired person or a pensioner and had been terminated while in service and in such circumstances his case would be squarely covered by the provisions of Rule 2.5 Vol.II of Punjab Civil Services Rules, 1970 and not under Rule 2.2. We are also of the considered opinion that the case of the petitioner falls under and is governed by Rule 2.5 of the Rules and therefore, there is no infirmity in the impugned order.

We are of the considered opinion that the learned Single Bench has rightly held and taken a view that the decisions rendered in the case of ***Prem Chand Dhand (supra)***, and ***Sardara Singh vs. State of Punjab and others 2016(3) PLR 341*** (Annexure P-14) do not in any manner help the appellant as both these cases relate to the persons who had retired and their cases fell within the ambit of Rule 2.2, Vol.II of Punjab Civil Services

Rules, 1970 whereas the case of the appellant falls squarely under the provisions of Ruled 2.5 Vol.II of Punjab Civil Services Rules, 1970 which clearly provides that a government servant who has been dismissed for any reason of misconduct, inefficiency or insolvency would not be granted pension.

In the circumstances, we do not find any illegality or perversity in the impugned order passed by the learned Single Judge warranting interference. Accordingly, the appeal is dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

23.03.2023
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Whether speaking reasoned	√Yes/No
Whether reportable	√Yes/No