

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA -353-2023 (O&M)

Reserved on: 02.11.2023

Pronounced on: 08.11.2023

Vinod Kumar and others

... Appellants

Versus

State of Punjab and others

... Respondents

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

Present: Mr.Ashish Soi, Advocate for the appellants

Ms.Lavanya Paul, DAG, Punjab

AMAN CHAUDHARY, J.

CM-1006-LPA-2023

For the reasons stated in the application, delay of 12 days is hereby
condoned, subject to all just exceptions.

Main appeal

1. The present intra-Court appeal, under Clause X of the Letters Patent
has been filed challenging the judgment dated 07.02.2023, whereby the civil writ
petition preferred by the appellants came to be dismissed.

2. Learned counsel submitted that the appellants though dismissed
from service were entitled to pension, gratuity etc. as they had all rendered more
than 20 years service as Patwari, but their prayer has been wrongly denied by the
learned Single Judge without taking into consideration the Rule 2.2(b) of the
Punjab Civil Services Rules, Volume II. Reliance is placed on a Single Bench
judgment in **Gurcharan Singh Hunjan vs. State of Punjab and others**,
CWP-20364-2016, decided on 01.03.2019.

3. Learned counsel appearing for the State on the other hand submitted that the appellants were convicted under the Prevention of Corruption Act, 1988 by the trial Court and subsequently dismissed from service. Thus, are not entitled to the relief as prayed for.

4. Heard learned counsel on either side. We find nothing wrong in the stand taken by the respondent State.

5. Irrefragably, the appellants have been convicted in a criminal case and are dismissed employees. It is not a case set up that during the pendency of the disciplinary or criminal proceedings, they retired from service on attaining the age of superannuation, thus the reliance on Rule 2.2 (2) b *ibid*, to say the least, is misconceived, as the eventuality that the punishing authority could impose only a cut in pension under the relevant Pension Rules and not impose a statutory punishment of dismissal etc., does not arise in the present case.

6. Notably, in terms of Rule 2.5 of the *ibid* Rules, no pension may be granted to a Government employee dismissed or removed for misconduct, insolvency or inefficiency and as per Rule 2.45 of the Punjab Civil Service Rule-Vol.I Part I, pension will include gratuity as well.

7. The judgment relied upon by the appellants is distinguishable on facts, it not being borne out therefrom that it was a case of dismissal, as is the one at hand, where 100% cut was imposed upon the petitioner therein having been convicted in a criminal case by applying Rule 2.2 *ibid*. Even otherwise the learned Single Judge in the said matter had merely directed respondents to pass a fresh order, after granting opportunity of hearing and there was no final determination on merits.

8. Considering that the appellants had been dismissed from service; their case does not also fall within the ambit of the aforementioned provision and in light

of the Rule 2.5 *ibid*, they would not be entitled to pension etc., the present appeal is found to be bereft of merit. Sequentially, the same is dismissed.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

08.11.2023
gsv

Whether speaking / reasoned: YES / NO
Whether Reportable: YES / NO