

**101+202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

2023:PHHC:130424
CM-12704-CWP-2023 and
CM-15454-CWP-2022 in/and
CWP-10972-2009 (O&M)
Date of Decision: 09.10.2023

...Petitioner

Vs.

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Vikas Chatrath, Advocate, Advocate and
Mr. Rajbir Singh, Advocate for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

CM-12704-CWP-2023

1. Allowed.
2. Reply filed on behalf of the respondents-State is taken on record.

CM-15454-CWP-2022

3. For the reasons as stated in the application, the same is allowed.
4. Annexures P-10 to Annexure P-18 are taken on record subject to all just exceptions.

CWP-10972-2009 (O&M)

5. The petitioner was involved in a criminal case under Sections 307 and 341 of the Indian Penal Code, 1860, while he was in service, as a consequence whereof, he was suspended from service on 31.07.2001. On 24.01.2002, during the pendency of the criminal case, the petitioner was reinstated in service. While the criminal case was pending, the petitioner

retired on attaining age of 58 years on 31.12.2004 and was also granted provisional pension w.e.f. 01.01.2005.

6. In the criminal case, the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of ten years vide judgment dated 21.11.2006 and, therefore, on the basis of his conviction and imprisonment, the provisional pension granted to the petitioner was stopped on 22.11.2006 by the department.

7. Thereafter, the petitioner preferred a writ petition bearing No.4119-2008, before this Court challenging the stoppage of provisional pension wherein this Court directed the State Authorities to decide the representation of the petitioner, vide its order dated 17.03.2008, whereafter, the petitioner's pension was stopped vide order dated 14.11.2008, after giving a show cause notice to the petitioner.

8. In criminal appeal preferred against the conviction, the High Court upheld the conviction but reduced the imprisonment to four years with fine of Rs.30,000/-.

9. The petitioner challenged the order of stoppage of pension dated 14.11.2008 by preferring an appeal before the Secretary, State Transport Punjab, Chandigarh, who vide his order dated 26.11.2010, restored his provisional pension, whereafter, the Secretary, State Transport, Punjab, Chandigarh, decided the appeal and was of the opinion that the order of punishment of stopping of pension is not justified and the pension of the petitioner was restored.

10. Learned counsel appearing for the respondents has filed an application in terms of the directions issued by this Court and has stated that in terms of the order passed by the Secretary, the petitioner's provisional pension was restored vide order dated 03.01.2011 and he has been granted

provisional pension continuously. However, so far as the other retiral benefits are concerned, the same have been withheld on account of pendency of the present writ petition.

11. In the opinion of this Court, once the punishment of stoppage of pension was set aside in appeal, the petitioner was entitled to receive all the retiral benefits and the gratuity and regular pension was required to be paid to him and could not have been withheld under the garb of pendency of the writ petition. In fact the writ petition would have become infructuous after the order of the Secretary, whereby the punishment of stoppage of pension was set aside.

12. In view of the above, the order passed by the General Manager, dated 03.01.2011, is found to be in error of law and accordingly, the petitioner's entire retiral benefits including gratuity and any other benefits have to be released. Since the petitioner attained superannuation in the year 2004, the gratuity and other retiral benefits which shall be released in his favour now would also carry interest at the rate of 9% per annum. Since the General Manager, Punjab Roadways, had no occasion to withhold his gratuity after the punishment order was set aside by the higher authorities, the interest payable to the petitioner as directed hereinabove may be recovered from the officer concerned, after giving him a show cause. The petitioner shall be paid the entire benefits within three months from today.

13. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

09.10.2023.

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| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |