

CM-20156-CWP-2023 &
CM-20158-CWP-2023 in/&
CWP-18586-2017

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2023:PHHC:154348

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104

CM-20156-CWP-2023 &
CM-20158-CWP-2023 in/&
CWP-18586-2017
Date of Decision :-04.12.2023

Baljinder Singh Mann

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manoj Kumar Sharma, Advocate for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

CM-20156-CWP-2023

The present application has been filed for condonation of delay of 489 days in filing the application seeking restoration of the main writ petition.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed. Delay of 489 days in filing the application seeking restoration of the main writ petition is condoned.

CM-20158-CWP-2023

Present application has been filed for recalling the order dated 17.05.2022 passed by this Court by which, the main writ petition was dismissed for non-prosecution.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed. Order dated 17.05.2022 passed by this Court is recalled and the main writ petition is ordered to be restored to its original number and status and is taken up for hearing today itself.

CWP-18586-2017

1. In the present petition challenge is to order dated 26/27.04.2017 (Annexure P/6) by which, punishment of 5% cut in the pension of the petitioner for life has been imposed upon the petitioner.

2. As per the averments, the petitioner while in service was issued a charge sheet dated 10.12.2010 raising certain allegations with regard to counter signing certain information by him, which information was later on found to be forged.

3. During the pendency of the disciplinary proceedings against the petitioner, the petitioner retired from service on attaining the age of superannuation and ultimately in the disciplinary proceedings pending against him, the respondents have passed order dated 26.04.2017 (Annexure P/6) by which, punishment of 5% cut in pension of the petitioner for life was imposed upon him. The said order is under challenge in the present petition.

4. Learned counsel for the petitioner submits that the only allegation against the petitioner is with regard to the negligence and there is no allegation of any misappropriation or causing loss to the State exchequer.

Learned counsel for the petitioner further submits that even while interpreting same proposition of law under which punishment has been imposed upon the petitioner, Division Bench of this Court in *CWP-568-2013 tilted as Jagdish Mitter vs. Central Administrative Tribunal and others decided on 19.05.2014* has held that cut in pension for life under Rule 2.2(b) of the Punjab Civil Services (Pension) Rules is disproportionate to the allegations alleged and the said punishment was modified by the Division Bench of this Court with the observation that cut in pension will be for a specific period and not for life hence, in the present petition, the claim of the petitioner is squarely covered by the judgment of Division Bench of this Court in *Jagdish Mitter (supra)*.

5. Learned counsel for the respondents on the other hand submits that as per the settled principle of law, in case the punishment is being changed and is found to be disproportionate to the charges alleged, the Court has no power to amend the punishment but to remand the case back to the authority concerned to pass a fresh appropriate order with regard to the imposing of punishment.

6. Learned counsel for the respondents further submits that keeping in view the facts and circumstances of the present case, once the allegations against the petitioner have been proved, even if, there is no financial loss caused to the State exchequer, punishment of cut in pension for life can be imposed upon the petitioner, which has rightly been imposed by the respondents.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. It is a conceded position that the punishment has been imposed upon the petitioner under Rule 2.2(b) of the Punjab Civil Services (Pension) Rules, which rule was also the subject matter in *Jagdish Mitter (supra)*, in which, the Division Bench of this Court has held that without there being any monetary loss suffered on account of supervision, the punishment of cut in pension for a life cannot be imposed as the same will be disproportionate to the charges alleged and proved.

9. In the present case also, there is no allegation of misappropriation or causing monetary loss to the respondent-department and the only allegation against the petitioner is with regard to counter signing the information, which information was later on found to be forged.

10. That being so, claim of the petitioner that punishment of 5% cut in pension for a life is totally disproportionate to the charges alleged and proved against the petitioner and is covered by the judgment in *Jagdish Mitter (supra)*. Hence, the impugned order dated 26/27.04.2017 (Annexure P/6) is set aside.

11. Keeping in view the fact that imposition of punishment is within the jurisdiction of the punishing authority, matter is remanded back to the authority concerned for passing a fresh order with regard to imposition of punishment, which should commensurate to the charges alleged and proved against the petitioner. Punishing authority should keep in mind the order passed by the Division Bench of this Court in *Jagdish Mitter (supra)* while passing a fresh order.

12. Let the fresh order be passed within a period of 08 weeks from the date of receipt of copy of this order and in case after passing the fresh

order, petitioner is found entitled for any benefit including the release of pension, which was already deducted, the same be released to the petitioner within a further period of further 04 weeks.

December 04, 2023

(HARSIMRAN SINGH SETHI)

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JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No