

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

207

LPA-411-2022 (O&M)
Decided on 18.01.2024

Union of India and others

... Appellants

Versus

Jai Pal Guleria and another

... Respondents

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

Present: Mr. Arun Gosain, Sr. Panel Counsel, for the appellants.

Mr. Arun Singh, Advocate, for the respondents.

AMAN CHAUDHARY, J.

1. Challenge in the present case is to the judgment of learned Single Judge, whereby the writ petition was allowed by setting aside the order impugned therein denying the right of pension to the petitioner-respondents, consequent upon his discharge.
2. Learned counsel for the appellants submits that even after substitution of the punishment of dismissal to that of discharge from service, the petitioner-respondents were not entitled to grant of pension, which has been wrongly allowed by the learned Single Judge.
3. Learned counsel for the petitioner-respondents, however, contends that the impugned judgment has considered all aspects of the matter and rightly held them entitled to pension commensurate to the length of the service rendered till they were discharged.
4. Heard learned counsel on either side.

5. As is evident, in the previous *lis* at the hands of the petitioner-respondents challenging the conducting of a *de novo* trial their dismissal from service, the learned Single Judge had set aside trial proceedings and the punishment was imposed on the petitioners, but were not granted reinstatement on account of the fact that they had remained out of service for a number of years. As such, it was held that the petitioners were deemed to have been discharged from service w.e.f. the date of their dismissal, i.e., 04.11.2000. In wake of the above, the plea urged in the subsequent writ petition by the respondents for releasing all pensionary benefits, was rightly allowed by the learned Single Judge by holding that the power to withhold the pension under Rule 9 of the Central Civil Services (Pension) Rules, 1972 was with the President and not the Department.

6. The learned counsel for the appellants was neither able to dispute the aforesaid nor could demonstrate, by placing reliance on any provision of law whereby in the fact situation as contained in the present case, pensionary benefits were not payable.

7. By far it is way too settled that pension is not given out of the generosity of the employer and in the absence of any provision thereto, the same should not be withheld or deducted. Once by judicial dispensation, which though was unsuccessfully challenged, the verdict thereof being that the respondents were held to be discharged from service and there being no impediment pointed out denuding them of their right to receive pension, a deferred portion for compensation for rendering long years of service, was a benefit hard-earned accrued to them and not a bounty, which as per the mandate enshrined under Article 300A of the Constitution of India held to be a property.

8. On a cumulative consideration of the matter, we are unable to find any reason to fault the impugned judgment. The present appeal being bereft of merit, is hereby dismissed.
9. Pending applications, if any, shall be rendered as disposed of.

(RITU BAHRI)

ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)

JUDGE

18.01.2024
ashok/gsv

Whether speaking / reasoned: YES / NO

Whether Reportable: YES / NO