

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

234

CWP-8644-2018 (O&M)
Date of Decision :12.08.2024

Jaswinder Singh

...Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. K.S. Dadwal, Advocate with
Mr. Jagdeep Singh, Advocate for the petitioner.

Mr. Satnam Preet Singh Chauhan, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

Learned counsel for the petitioner submits that in the present petition, challenge is to the order dated 07.03.2018 (Anenxure P/5) by which, punishment of 10% cut in pension for a period of one year has been imposed upon the petitioner.

Learned counsel for the petitioner submits that despite the fact that there was no allegation of embezzlement or any financial loss to the State still the punishment of 10% cut in pension of the petitioner for one year has been imposed, which action of the respondents is arbitrary and illegal.

Learned counsel for the petitioner further submits that in the similar facts and circumstances, the Division Bench of this Court while passing order in LPA-340-2017, titled as, Gurcharan Singh vs. State of Punjab and others, decided on 08.02.2023, has held that where there is no

allegations alleged or proved qua any embezzlement or any financial loss caused to the State, no recovery can be ordered as a punitive measure from pension and any such punishment imposed is arbitrary and illegal.

Learned counsel for the respondents though, has not been able to dispute the fact that in the present case, there is no allegation of embezzlement or any financial loss caused to the State against the petitioner but submits that the punishing authority keeping in view the facts and circumstances of the present case deemed it fit to impose punishment of cut in pension upon the petitioner and hence, present writ petition may kindly be dismissed.

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

In the present case, the allegations are that the services of an employee working with the respondent-department was regularized in violation of the instructions issued. There is no financial loss caused by the petitioner by way of embezzlement or any other means to the State Exchequer.

As per the Judgment of the Division Bench of this Court in *Gurcharan Singh (supra)*, where there is no loss caused to the State Exchequer either alleged or proved by the Enquiry Officer, the imposition of punishment of cut in pension by punitive measure will be arbitrary and illegal. Relevant paragraphs of the judgment are as under:-

“We find force in the above contentions.

In the absence of any finding against the appellant that he was responsible for causing financial loss to the Municipal Council either by the enquiry officer or by respondent No.1, it was not open to the learned Single Judge to give a finding that financial loss was caused to the Municipal Council on the basis of assumptions and presumptions without any material on record.

Only if there is a finding of financial loss caused to Government by the enquiry office or respondent no.1, Rule 2.2(b) of the Rules can be invoked. It permits recovery of pension after it has been sanctioned as a punitive measure in order to make good loss to the Government on account of negligence on the part of an employee.

In the absence of any finding of loss caused to the Government either by the enquiry officer or by respondent No.1, no recovery from pension could have been ordered as a punitive measure by the respondents.”

Learned counsel for the respondents very fairly concedes that in the present case, there is no financial loss caused by the petitioner to the State Exchequer hence, keeping in view the same, action of the respondents imposing punishment of 10% cut in pension for a period of one year of the petitioner is held to be bad in view the of settled principle of law settled by the Division Bench of this Court in Gurcharan Singh (supra). Impugned order dated 07.03.2018 (Anenxure P/5) is set aside. Any recovery done from the petitioner be refunded back to him within a period of 08 weeks from the date of receipt of copy of this order.

No other argument has been raised.

Present petition stands allowed in above terms.

Civil miscellaneous application pending, if any is also disposed of.

August 12, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No