



CWP-30894-2018 (O&M)

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

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**CWP-30894-2018 (O&M)
Date of Decision :27.08.2024**

Prem Chand Chauhan

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parveen Kumar Garg, Advocate for the petitioner.

Mr. Satnampreet Singh Chauhan, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, challenge is to the order dated 19.12.2016 (Annexure P/6) by which, punishment of 10% cut in pension for a period of 05 years has been imposed upon the petitioner.

As per the facts mentioned in the petition, while the petitioner was in service and working as Lecturer in Math, a charge sheet dated 11.01.2007 (Annexure P/2) was issued to him with the allegations that the petitioner is not taking classes and has also committed insubordination with the principal. The said charge sheet dated 11.01.2007 remained pending for passing a final order despite the fact that in the enquiry report dated 10.10.2007 alleged charges about misconduct were proved against the petitioner. The petitioner retired from service on attaining the age of

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superannuation on 30.04.2016 and after the 08 months of his retirement, the respondents have passed the order imposing a punishment of 10% cut in pension for a period of 05 years upon the petitioner. The said order is under challenge in the present petition.

Learned counsel for the petitioner argues that once, the charges alleged and proved against the petitioner were not with regard to the embezzlement or causing loss to the State Exchequer, punishment of 10% cut in pension and that too for a period of 05 years is disproportionate to the allegations alleged and proved against the petitioner.

Learned counsel for the respondent-State on the other hand submits that once, the charges have been proved against the petitioner and by the time, an action was taken by the respondents in respect of the charges alleged and proved in the enquiry report dated 10.10.2007, the petitioner had retired from service hence, keeping in view the jurisdiction with the respondent-State, punishment of 10% cut in pension for a period of 05 years had rightly been imposed upon the petitioner and hence, the present petition is liable to 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 charges alleged and proved against the petitioner only related to the non-attending of classes and insubordination with the Principal. Charge sheet to the petitioner was issued in the year 2007 and surprisingly, the charges alleged though, were proved in the year 2010, keeping in view the enquiry report dated 10.10.2007, but still the respondents failed to take any action against the petitioner during his service



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career and after the retirement of the petitioner from service in the year 2016, order of punishment of 10% cut in pension for a period of 05 years has been passed.

The question which is posed before his Court is whether keeping in view the nature of charges alleged and proved against the petitioner, punishment of 10% cut in pension for a period of 05 years is proportionate to the charges proved or not.

The said question is no longer *res integra*. The Division Bench of this Court in **LPA No.1389-2017, titled as Major Singh Sandhu vs. State of Punjab and others., decided on 13.04.2023**, has already held that where there is no allegation of misappropriation, embezzlement or causing loss to the State Exchequer, the cut in pension cannot be imposed as the same will be disproportionate to the charges alleged and proved. Relevant paragraphs of the judgment are as under:-

“In Gurcharan Singh vs. State of Punjab and others
dt.08.02.2023 in LPA-340-2017, in a similar situation, this Court has taken a view that only if there is finding of financial loss caused to the State, Rule 2.2 (b) of the Pension Rules can be invoked, and no recovery from pension can be ordered as a penalty measure by the State in the absence of any loss caused to the Government.

In this view of the matter, the Letters Patent Appeal is allowed; order of the learned Single Judge dt.01.02.2017 in CWP-2779-2014 to the extent the learned Judge held that the 10% cut in pension made by the respondents from the Pension payable to the appellant is set aside, and the respondents are directed to refund to the appellant the amount of such deduction made from his pension from the date from which it was made till date within 08 weeks from the receipt of a copy of this order with interest @ 6% per annum from respective to

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the dates of deduction till the date of actual payment, and respondents are directed to refund 10% deduction from pension made for the period of 3 years pursuant to the orders dt.15.10.2012 (P-7) and 22.01.2013 (P-9) within 08 weeks with interest @ 6% per annum.”

In the present case also, there are no allegations of misappropriation, embezzlement or causing loss to the State Exchequer against the petitioner and the allegations are only qua the non-attending of classes and insubordination with the Principal.

Learned counsel for the respondent-State has not been able to point out any differentiating facts in the case of the petitioner as compared to the case of **Major Singh Sandhu (supra)**.

Keeping in view facts and circumstances recorded hereinbefore coupled with the settled principle of law cited hereinabove, **Major Singh Sandhu (supra)** impugned order of punishment dated 19.12.2016 (Annexure P/6) is set aside and the case is remanded back to the authorities concerned for passing fresh order of punishment upon the petitioner, which order will not include punishment of cut in pension. Further, the amount which has been deducted from the pension of the petitioner under the impugned order of punishment dated 19.12.2016 (Annexure P/6), which has been set aside by the present order of this Court, be refunded back to the petitioner within a period of 03 months from the date of receipt of copy of this order.

At this stage, learned counsel for the petitioner submits that the petitioner has not been given any benefit for the suspension period.

It may be noticed that petitioner has been held guilty in the departmental proceedings and once, the petitioner has been held guilty in the

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departmental proceedings, the respondents are within their jurisdiction to decide not to pay any other benefit over and above the subsistence allowance hence, claim of the petitioner for the grant of salary for the suspension period is not in accordance with law and the same is accordingly rejected.

No other argument has been raised.

Present petition is disposed of in above terms.

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

August 27, 2024*aarti***(HARSIMRAN SINGH SETHI)****JUDGE***Whether speaking/reasoned : Yes/No**Whether reportable : Yes/No*