



LPA-98-2025 (O&M)

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

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LPA-98-2025 (O&M)

Date of Decision: 16.01.2025

Padam Nabh Singh

..... Appellant

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Karan Kapoor, Advocate
for the appellant.

Ms. Amrita Garg, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J (ORAL)

CM-222-LPA-2025

This is an application for condonation of delay of 29 days in filing the present appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 29 days in filing the appeal is hereby condoned.

Main Case

1. This is an appeal preferred by the appellant challenging the judgment passed by the learned Single Judge dated 13.11.2024, whereby, his petition has been dismissed.

2. Learned counsel for the appellant relies upon the judgment passed by the Hon'ble Supreme Court in the case of '*State of Jharkhand*



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and others Vs. Jitendra Kumar Srivastava and another' passed in Civil Appeal No.6770 of 2013, wherein it was observed as under:-

*11. Reading of Rule 43(b) makes it abundantly clear that even after the conclusion of the departmental inquiry, it is permissible for the Government to withhold pension etc. **ONLY** when a finding is recorded either in departmental inquiry or judicial proceedings that the employee had committed grave misconduct in the discharge of his duty while in his office. There is no provision in the rules for withholding of the pension/ gratuity when such departmental proceedings or judicial proceedings are still pending.*

3. Vide the aforesaid judgment, it was directed as under:-

15. It hardly needs to be emphasized that the executive instructions are not having statutory character and, therefore, cannot be termed as "law" within the meaning of aforesaid [Article 300A](#). On the basis of such a circular, which is not having force of law, the appellant cannot withhold - even a part of pension or gratuity. As we noticed above, so far as statutory rules are concerned, there is no provision for withholding pension or gratuity in the given situation. Had there been any such provision in these rules, the position would have been different.

4. We noticed that the Supreme Court has specifically left those cases wherein the provision under Rule is to be treated differently.

5. In the present case, the respondent-State has exercised powers in terms of the Rule 2.2 of the Punjab Civil Services Rules, which reads as under:-

2.2 (a) Recoveries from pensions.— *Future good conduct is an implied condition of every grant of a pension. The Government reserve to themselves the right of withholding or withdrawing a*



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pension or any part of it if the pensioner be convicted of serious crime or be guilty of grave misconduct.

In a case where a pensioner is convicted of a serious crime, action shall be taken in the light of the judgment of the court relating to such conviction.

In a case not covered by the preceding paragraph, if the Government considers that the pensioner is prima facie guilty of grave misconduct, it shall before passing an order,—

(i) serve upon the pensioner a notice specifying the action proposed to be taken against him and the grounds on which it is proposed to be taken and calling upon him to submit, within sixteen days of the receipt of the notice or such further time not exceeding fifteen days, as may be allowed by the pension sanctioning authority, such representation as he may wish to make against the proposal; and

(ii) take into consideration the representation, if any, submitted by the pensioner under sub-clause (i) Where a part of pension is withheld or withdrawn the amount of such part of pension shall not ordinarily exceed one-third of the pension originally sanctioned nor shall the amount of pension left to the pensioner be ordinarily reduced to less than three thousand five hundred rupees per month, having regard to the consideration whether the amount of the pension left to the pensioner, in any case, would be adequate for his maintenance.

(b) *The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether*



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permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if, in a departmental or judicial proceeding, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement:

Provided that—

(1) Such departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, be deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service;

(2) Such departmental proceedings, if not instituted while the officer was in service whether before his retirement or during his re-employment—

(i) shall not be instituted save with the sanction of the Government;

(ii) shall not be in respect of any event which took place more than four years before such institution; and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service.

(iv) No such judicial proceedings, if not instituted while the officer was in service, whether before his retirement or during his re-employment shall be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution; and The Public Service Commission should be consulted before final orders are passed”.

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6. The appellant admittedly was convicted for the offences under Sections 420, 466, 467, 468 and 471 IPC. In view thereto, the State taking into consideration that the petitioner has been convicted for the offences relating to moral turpitude, withhold 1/3rd of his pension.

7. Although the Rule even provides for withholding the entire pension, a lenient view appears to have been taken by the State. We do not intend to interfere with the same. The order passed by the learned Single Judge upholding the said order dated 20.12.2018 passed by the State does not warrant any further interference. The appeal is misconceived and accordingly, the same is dismissed.

8. The pending misc. application, if any, shall stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

16.01.2025
D.Bansal

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No