IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

247

CWP-14010-2020 (O&M)
Date of decision: 27.01.2025

Gurupdesh Singh

....Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

*****

Present : Mr. Vikas Singh, Advocate for the petitioner

Ms. Shruti, AAG Punjab

*****

AMAN CHAUDHARY, J. (ORAL)

1. The petitioner, who has since superannuated on 31.08.2017, while in service of the respondent Department as Principal in ITI Bathinda, was implicated in FIR No.22 dated 03.06.2000 under section 7.13(2) of the Prevention of Corruption Act, was reinstated in July 2006 following his acquittal vide judgment dated 23.11.2005. An appeal against acquittal being CRA-S-1920-SBA-2006, has been preferred by the State of Punjab, with its pendency cited as the sole ground for granting only a provisional pension.

2. While addressing a congruent legal issue of restricting the retiral benefits in case of an appeal against acquittal having been filed, the same was found to be fundamentally flawed in **Faquir Chand vs. State of Haryana and others**, CWP-3177-2009 and **Banwari Lal vs. State of Haryana and others**, CWP-4032-2009, disposed of vide a common judgment dated 13.11.2009, LPA against which stands dismissed observing that a finding of guilty is a prerequisite for invoking the provisions of the Rules to withhold or discontinue pension or

pensionary benefits. An appeal against acquittal, by no means or interpretation, equates to a conviction justifying such deprivation. Relevant paras whereof read thus:

> "5. The petitioner in Civil Writ Petition No.4032 of 2009 had joined the Government service as Sahayak Patwari and has retired on superannuation on 31.7.2006. The petitioner war implicated for an offence under Section 7/13 of the Prevention of Corruption Act. He, however, was acquitted of this charge on 27.2.2007. The State has filed a criminal appeal against this order, which is pending before this Court. His pensionary benefits were not released, though no judicial or other proceedings are pending against him as on date. The petitioner made a representation to the Deputy Commissioner, Karnal. Principal Secretary, Haryana Government, Revenue Department, has issued a letter on 21.10.2008 directing the Deputy Commissioner to release the retiral benefits of the petitioner but still no action was taken. The petitioner has only been paid his provident fund whereas other retiral benefits have not been paid. He has accordingly filed this writ petition.
>
> 6. Here also, there is not much dispute in regard to the factual position and the respondents have justified their action of withholding the pensionary benefits on the ground of pendency of criminal case and it is stated that the decision for payment of pension and gratuity shall be taken after the final decision in the criminal case. It is, however, stated that the petitioner has also been served a charge sheet under Section 7 of the Haryana Punishment and Appeal Rules but the competent authority has taken a decision to pend the matter till final decision of the Court in criminal case. Accordingly, it is stated that the petitioner is not entitled to the release of his pensionary benefits.
>
> 7. Mr. Anil Kshetarpal, learned counsel for the petitioner has based his arguments primarily on the bare provisions of the Rule. Rule 2.2 of the Rules provides that future good conduct is the implied condition for grant of pension and the competent authority has a right to withhold or withdraw pension if the person is convicted of a serious crime or being guilty of great misconduct. The provisions of Rule 2.2 are as under :-
>
> xxx xxx xxx
>
> 8. The learned counsel would term the action of the respondents in withholding his pension to be wholly illegal as pension or pensionary benefits can only be withheld or discontinued upon conviction of a serious crime as is given in Rule 2.2 of the Rules reproduced above. In support of his submission, the counsel has referred to **Manohar Singh v. Punjab State Electricity Board and others**, 2006(2) SCT

103. The Division Bench of this Court while interpreting somewhat similar provision made by Electricity Board, has viewed that action to withhold gratuity etc. can only be invoked where departmental or judicial proceedings are initiated under clause (b) of Rule 2.2 or are continued under clause (1) of proviso thereto. Rule 2.2 of the Rules applicable to Electricity Board makes the right to withhold pension dependent on finding of guilt of a grave misconduct or negligence during the service. While interpreting this Rule, the Court observed that the bare perusal of the Rule would show that it can be invoked if in a departmental or judicial proceedings, the pensioner is found guilty of great misconduct or negligence during the service. The Court further opined that the respondents could not invoke Rule 2.2 (b) on the ground that criminal case is still pending against the petitioner. The Court held that sine-qua-non for invoking Rule 2.2 (b) is that the petitioner has been found guilty in a departmental or judicial proceedings which had continued after the superannuation of the employee. While so holding, the Court relied upon another decision of this Court in **High Court of Punjab and Haryana v. Amrit Singh**, 1995 (2) SCT 613 wherein it was observed as under:-

xxx xxx xxx

9. Reference is also made to the ratio of law laid down in this regard in the case of **Atam Bodh Sharma v. State of Haryana and others**, 2006(4) SCT 760, where a similar view was taken and judgment in the case of **Manohar Singh** (supra) was noticed with approval. Reference made by Mr. Rathi to a Full Bench decision in the case of **Dr. Ishar Singh, Ex. Principal, Punjab Govt. Dental College & Hospital, Amritsar v. State of Punjab, through the Secretary to Government, Department of Health & Family Affairs, Chandigarh and others**, 1994(1) SCT 563: 1999(3) (1993?) Punjab Law Reporter 499, does not directly deal with the issue involved in the present writ petition and as such, would not be applicable to the facts of the present case.

10. In Civil Writ Petition No. 3177 of 2009, no departmental proceedings are being held against the petitioner. He is only facing criminal prosecution. It is possible to view that the proceedings under Rule 2.2 (b) of the Rules can only be initiated on conclusion of criminal trial and if the petitioner is found guilty of the charge preferred against him under Section 306 Indian Penal Code. The provisions contained in other clauses can not be read in isolation and as already held by this Court, the continuation of the criminal case can not deprive the petitioner of the benefit of death-cum-retirement gratuity. In Civil Writ Petition No. 4032 of 2009, apparently there is no justification to either withhold pension or pensionary benefits, once the petitioner therein has been acquitted of the charge

> preferred against him under the Prevention of Corruption Act. The finding of guilty is a sine-qua-non for invoking the provisions of the Rules to withhold or discontinue pension or pensionary benefits. Merely because the State has filed an appeal against the order of acquittal would not mean that this acquittal can be taken as a conviction to withhold or withdraw the pensionary benefits. Concededly, the departmental proceedings initiated against the petitioners have been held in abeyance to await the decision in the criminal case. That would also, therefore, not give any justification to the respondents not to release the pensionary benefits to the petitioners.
> 11. The writ petitions are, therefore, allowed. Directions are issued to the respondents to release the entire retiral benefits of the petitioners. Let the needful be done within a period of three months from the date of receipt of certified copy of this order. There shall be no order as to costs."

3. Stressing on the importance of granting pension, Hon'ble the Supreme Court in **State of Kerala vs. M. Padmanabhan Nair[1],** held that, "Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."

4. Given the authoritative rulings in **A.S. Randhawa vs. State of Punjab and others[2],** and **Vijay L. Mehrotra vs. State of UP[3]**, it is irrefutable that a retiree is rightfully entitled to compensation for delayed disbursement, best remedied by awarding interest on the outstanding sum from the date of superannuation, especially in the absence of any legitimate justification for the deferment. Full Bench of this Court in **A.S. Randhawa** (supra) underscored that upon retirement, a government employee acquires an immediate right to pension and allied benefits, imposing a duty on the State to facilitate their disbursement

[1] (1985) 1 SCC 429
[2] 1997(3) SCT 468
[3] 2001 (9) SCC 687

within a reasonable period, ideally not exceeding two months. Failure to do so entitles the retiree to compensation via interest. Similarly in **J.S. Cheema vs. State of Haryana**[4], the Court likened such interest to "rent for the usage of money" that rightfully belonged to the petitioner but was unjustly retained and utilized by the State.

5. Any unwarranted delay in disbursing pension and other retiral benefits, a vested right, necessitates recompense through interest, not merely as compensation for the deprivation suffered but as redress for the undue advantage wrongfully accrued to the respondents, serving as reparation rather than a penalty.

6. In wake of the aforesaid, the present petition is allowed. The impugned order dated 30.11.2017 is set aside with a directive to the respondents to release all pensionary benefits with interest at the rate of 6% per annum from the date they fell due till the date of its realization. Needful be done within a period of three months.

(AMAN CHAUDHARY)
JUDGE

27.01.2025
M.Kamra

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

[4] 2014(13) RCR (Civil) 355