



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

CWP-14358-2025

Date of Decision: 19.05.2025

RAKA GHIRRA

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Ms. Sanchi Bindra, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 28.10.2024 whereby respondent has withheld his 100% pension and other retiral benefits.

2. The petitioner is a former Deputy Superintendent of Punjab Police. An FIR No. RC CHG 2011 A0016 dated 24.07.2011 came to be registered against her. During the pendency of trial arising out of aforesaid FIR, she attained age of superannuation thus, she retired on 30.09.2021. At the time of her retirement, an order dated 25.10.2021 was passed whereby Government reserved its right to take action against her under Rule 2.2 (b) of the Punjab Civil Services Rules, Volume II (for short 'PCSR'). The petitioner came to be convicted vide judgment dated 07.02.2024 passed by learned Special Judge, CBI Court, Chandigarh. She preferred an appeal before this Court which stands admitted and sentence stands suspended. The respondent by impugned order has withheld her pension which she was getting after her retirement.

3. Ms. Sanchi Bindra, Advocate submits that respondent has passed impugned order in gross violation of principles of natural justice as well as mandate of Rule 2.2 (b) of PCSR. The respondent was bound to issue notice and, thereafter, grant opportunity of hearing before passing the impugned order. The respondent could withhold maximum 1/3rd of pension whereas 100% pension has been withheld. The Government, at the time of her retirement, reserved right to take action under Rule 2.2 (b) of PCSR whereunder there is no provision to withhold 100% pension on the ground of conviction.

4. I have heard learned counsel for the parties and have perused the record.

5. From the perusal of the record, it is evident that State Government at the time of retirement of petitioner in order dated 25.10.2021 reserved its right under Rule 2.2 (b) of PCSR. The Government has right to withhold pension or withdraw full or part of the pension if pensioner is convicted of serious crime or is held guilty of grave misconduct. Rule 2.2 deals with the situation arising out of conviction, holding guilty of grave misconduct. The relevant extracts of PCSR are reproduced as below:-

“2.2. Recoveries from pensions.-*(a) 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 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.

In a case where an order under clause (i) above is to be passed by the Government, the Public Service Commission shall be consulted before the final order is passed.

The decision of the Government on any question of withholding or withdrawing the whole or any part of the pension under this rule shall be final and conclusive.

Explanation: xxx xxx xxx

(b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specific 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 judicial proceedings, the pensioner is found guilty of grave misconduct or negligence, during his service including service rendered on 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 proceeding in which an order of dismissal from service could be made in relation to the officer during his service.

3) No such judicial proceedings, if not instituted while the officer was in service, whether before this 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.

Explanation:-For the purpose of this rule

(a) a departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the officer or pensioner, or if the officer has been placed under suspension from an earlier date, on such date; and

(b) a judicial proceeding shall be deemed to be instituted-

(i) in the case of a criminal proceeding, on the date on which the complaint or report of the police officer on which the Magistrate cognizance, is made; and

(ii) in the case of a civil proceeding, on the date of presentation of the plaint in the Court.

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6. From the perusal of above quoted Rule, it is evident that conviction is an entirely different attribute from other reasons to withhold pension. The pension may be withheld on account of conviction or grave misconduct or negligence established in the departmental or judicial proceedings. Conviction is contemplated by Rule 2.2 (a). It categorically provides that pension may be withheld if a pensioner is convicted of serious crime. There is requirement to issue notice and thereafter pass order if pensioner is *prima facie* guilty of grave misconduct, however, there is no requirement to issue notice and thereafter pass order if pensioner is guilty of serious crime. The petitioner concededly has been convicted for commission of offence punishable under Section 7 of Prevention of Corruption Act, 1988. Crime punishable under PC act is a serious crime. The petitioner has been awarded sentence of six years. This Court has admitted her appeal and further suspended her sentence but conviction has not been suspended. The case of petitioner is squarely covered by first part of Rule 2.2 (a) of PCSR and there was no requirement to issue notice and thereafter grant opportunity of hearing. Even Article 311 (2) permits dispensation of departmental inquiry if a person is convicted. The conviction takes place after holding full fledged trial, thus, legislature as per its wisdom has not provided for notice and thereafter passing order in case of conviction, though, in the same Rule, requirement to issue notice and pass order where person is found guilty of misconduct, has been mandated. The claim of petitioner that right to recover or withhold pension was not reserved under Rule 2.2 (a) of PCSR

is misconceived. Terms and conditions of an order or communication issued by Government at the time of retirement of an employee cannot determine rights & liabilities contrary to statutory provisions. Rule 2.2 (a) is a statutory provision and its jotting down in the order of retirement is irrelevant. The said rule cannot be ignored and Courts are bound to give full effect to statutory provisions governing service conditions.

7. In the wake of aforesaid discussing and findings, the present petition stands dismissed.

(JAGMOHAN BANSAL)
JUDGE

19.05.2025
Prince Chawla

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No