



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

CWP No. 3993 of 2011 (O&M)

Date of Decision: 21.02.2025

Malook Singh (since deceased) through his LRs.

....Petitioner

VS.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ish Puneet Singh, 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 direction to respondents to grant him pensionary benefits in view of qualifying service to his credit.

2. The petitioner during the pendency of instant petition has passed away and his legal representatives are on record who are pursuing the matter. The petitioner after retirement from Indian Army joined Punjab Police in October' 1975. He came to be dismissed vide order dated 29.05.1999. He unsuccessfully preferred appeal and revision before higher authorities. He also filed mercy petition before Government. He preferred CWP No. 7535 of 2001 before this Court assailing order of dismissal. The



said petition was disposed of vide order dated 16.05.2003. The order dated 16.05.2003 being a short order is reproduced as below:-

“ Learned counsel for the petitioner contends that the impugned orders passed by the respondents are contrary to the statutory provisions and the principles of natural justice. While impugning the order of dismissal from service dated 29.05.1999 and other appellate orders affirming the said order, it is also contended that at the time of inflicting the punishment upon the petitioner, the respondent-authority was obliged to consider the length of service and specifically with regard to the benefits to the petitioners, despite the order of dismissal or other punishment.

We have heard learned counsel for the petitioner and gone through the record of the case.

We are not prepared to interfere in the order of punishment passed by the respondents but would dispose of this writ petition with liberty to the petitioner to approach the respondents by way of representation for grant of pensionary benefits, keeping in view the fact that he has already rendered more than 21 years of service. If such representation is moved within a period of four weeks, the same shall be dealt with and disposed of in accordance with law within a period of four months thereafter.”

3. The petitioner in the light of aforesaid order approached respondents seeking pensionary benefits. The only ground for claiming pensionary benefits was that he had service of 21 years to his credit, thus, he deserves pensionary benefits. The respondent has rejected his claim by impugned order dated 17.03.2004 (Annexure P-1).



4. Mr. Ish Puneet Singh, Advocate submits that in view of orders of Division Bench of this Court in earlier round of litigation and order dated 01.10.2008 passed by this Court in **Manohar Lal vs. The State of Punjab and another, 2008 SCC OnLine P&H 1863**, the petitioner is entitled to pensionary benefits as he had service of 21 years to his credit. He could not be deprived from pensionary benefits despite dismissal from service.

5. *Per contra*, Mr. Aman Dhir, DAG, Punjab submits that petitioner was dismissed from service. The Division Bench in the earlier round of litigation did not disturb findings of authorities qua dismissal from service meaning thereby order of dismissal stands upheld. As soon as a police officer is dismissed from service, he is deprived from benefit of pension. He cannot claim pension otherwise order of dismissal from service would become meaningless. In support of his contention, he placed reliance upon Rule 2.5 of the Punjab Civil Services Rules.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. From the perusal of record, it is evident that petitioner's order of dismissal from service stands upheld. A Division Bench of this Court has dismissed his petition qua dismissal from service though he was granted liberty to approach the authorities with respect to his claim of pensionary benefits. The authorities were directed to decide his claim in accordance with law. The Court has not directed the authorities to grant pension and order was confined to the direction to consider his claim in accordance with law.



In this backdrop, it is necessary to examine whether an employee who has been dismissed from service can claim pensionary benefits or not.

8. Pension is governed by The Punjab Civil Services Rules and Punjab Police Rules, 1934 (in short “PPR”). Chapter II Volume-II of said Rules provides for General Provisions relating to grant of pensions. Rule 2.5 provides that pension may not be granted to a government employee who is dismissed or removed for misconduct, insolvency or inefficiency, however, he may be granted compassionate allowance. Rule 2.5 of Chapter II Volume-II of The Punjab Civil Services Rules reads as:-

“No pension may be granted to a Government employee dismissed or removed for misconduct, insolvency or inefficiency; but to Government employee so dismissed or removed, compassionate allowances may be granted when they are deserving of special consideration: Provided that the allowance granted to any Government employee shall not exceed two-thirds of the pension which would have been admissible to him if he had retired on medical certificate.

***Note 1.**—This rule vests Government with an absolute discretion to grant or not to grant any compassionate allowance, the only restriction being that if granted, it shall not exceed the maximum of two-thirds of the pension that would be admissible to the officer concerned on retirement on medical certificate. It is practically impossible in view of the wide variations that naturally exist in the circumstances attending each case, to lay down categorically, precise principles that can uniformly be applied to individual cases. Each case has, therefore, to be considered on its merits and a conclusion has to be reached on the question whether there were any such extenuating features in the case as would make the punishment awarded, though it*



may have been necessary in the interest of Government, unduly hard on the individual. In considering this question it has been the practice to take into account not only the actual misconduct or course of misconduct which occasioned the dismissal or removal of the officer, but also the kind of service he has rendered. Where the course of misconduct carries with it the legitimate inference that the officer's service has been dishonest there can seldom be any good case for a compassionate allowance. Poverty is not an essential condition precedent to the grant of a compassionate allowance, but special regard is also occasionally paid to the fact that the officer has a wife and children dependent upon him, though this factor by itself, is not, except perhaps in the most exceptional circumstances, sufficient for the grant of a compassionate allowance.

Note 2.—*The report of the Accountant-General is required in all cases of grant of compassionate allowances.*

Note 3.—*No Government employee even if belonging to a class entitled to commute ordinary pension, is entitled to commute a compassionate allowance; a commutation to such an allowance may be sanctioned by a competent authority only on proof that the proceeds of the commutation will be invested for the permanent benefit of the commutor's family.*

Note 4.—*In cases, where it is proposed to grant to a Government employee dismissed or removed from service, a compassionate allowance, the sanctioning authority should not condone deficiencies in service, for the purpose of determining the amount of pension that would have been admissible to him if he had retired on medical certificate on the basis of which the compassionate allowance is calculated."*

9. From the perusal of aforesaid Rule, it is evident that a dismissed employee is not entitled to pension, however, he may be paid compassionate



allowance in special circumstances. The petitioner was dismissed from service and his dismissal order stands upheld, thus, his qualifying service lost significance. If pension is extended on the basis of length of service, the order of dismissal or removal from service would become meaningless.

10. Rule 16.2 of PPR provides that disciplinary authority while passing order of dismissal from service shall take care of length of service and claim of pension. The order of dismissal from service has been upheld, thus, petitioner cannot claim pension as a matter of right.

11. The petitioner is relying upon judgment of this Court in **Manohar Lal (Supra)** wherein different set of Rules are discussed. Rule 2.5 of The Punjab Civil Services Rules was not brought in the knowledge of learned Single Judge.

12. Rule 9.18 of PPR also provides for pension. It categorically provides that retiring pension is granted to an officer who is permitted to retire from service or who is compulsorily retired after completing qualifying service. For the ready reference, Rule 9.18 of 1934 Rules is reproduced as below:-

“Retiring pension - (1) A retiring pension is granted to an officer -

(a) who is permitted to retire from service after completing qualifying service for twenty-five years or such lesser period as may, for any class of officers, be pre-scribed; or

(b) who is compulsorily retired under sub-rule (2) after completing ten years' qualifying service.

(2) The Inspector-General of Police may, with the previous approval of the State Government, compulsorily retire any Police Officer, other than that belonging to Indian Police



Service or Punjab State Police Service, who has completed ten years' qualifying service, without giving any reasons. An officer who is so compulsorily retired will not be entitled to claim any special compensation for his retirement.

Note 1. - *The right to retire compulsorily shall not be exercised except when it is in the public interest to dispense with the further services of an officer, such as on account of inefficiency, dishonesty, corruption or infamous conduct. Thus the rule is intended for use -*

(i) against an officer whose efficiency is impaired but against whom it is not desirable to make formal charges of inefficiency or who has ceased to be fully efficient (i.e., when an officer's value is clearly incommensurate with the pay which he draws) but not to such a degree as to warrant his retirement on a compassionate allowance. It is not the intention to use the provisions of this rule as a financial weapon, that is to say, the provision should be used only in the case of an officer who is considered unfit for retention on personal as opposed to financial grounds;

(ii) in cases where reputation for corruption, dishonesty or infamous conduct is clearly established even though no specific instance is likely to be proved.

Note 2. - *The officer shall be given an adequate opportunity of making any representation that he may desire to make against the proposed action, and such representation shall be taken into consideration, before his compulsory retirement is ordered. In all cases of compulsory retirement of enrolled police officers, the Inspector-General of Police shall effect such retirement with the previous approval of the State Government in accordance with the instructions, if any, issued by the Government on the subject from time to time.*

(3) The officer, whose duty it would be to fill up the appointment if vacant, shall record his orders on the application to retire,



which, if in vernacular, should be accompanied by a translation in English. If the officer who applies for pension, is permitted to retire, the application shall be forwarded with the pension papers (vide Article 906 and 930, Civil Service Regulations). ”

13. The aforesaid Rule makes it clear that pension is available to a person who is permitted to retire after completing qualifying service or who is compulsorily retired after completing qualifying service. The intent and purport of aforesaid Rule is to deny pension to those persons who are dismissed from service. If pension is granted irrespective of punishment including dismissal from service, Rule 9.18 of PPR would lose its significance. This Court is of the considered opinion that if pension or other pensionary benefits are granted despite dismissal from service, every police official would be entitled to pension on the basis of his length of service.

14. There is another aspect of the matter. The impugned order was passed in 2004 whereas petitioner approached this Court in 2011. There is no explanation for the inordinate delay of seven years in approaching this Court.

15. In the wake of above discussion and findings, the instant petition deserves to be dismissed and accordingly dismissed. This order would not inhibit the petitioner from claiming compassionate allowance in terms of Rule 2.5 of the Punjab Civil Services Rules.

16. Pending Misc. application(s), if any, shall stand disposed of.

21.02.2025
paramjit

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	

