

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

251

CWP-24477-2021 (O&M)
Date of decision: 29.01.2025

SOHAN SINGH

....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. V.K. Shukla, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for quashing of the order dated 01.06.2020 (Annexure P-4), passed by respondent No.3, imposing a punishment of dismissal from service upon the petitioner after his retirement with retrospective effect and stopping his pension and an order dated 28.10.2021 (Annexure P-6), vide which the appeal was rejected.
2. The petitioner had retired on 31.05.2017, whereafter his pensionary benefits were also released, including gratuity, leave encashment, G.P. fund and pension w.e.f. 1.6.2017. However, in FIR No.6 dated 18.05.2015, he was convicted and sentenced for 04 years rigorous imprisonment, vide judgment dated 01.05.2019, passed by learned Special Judge, Moga, against which a criminal appeal No.CRA-S-1590 of 2019 was preferred by him, wherein his sentence stands suspended. It is thereafter that an order as impugned in the present petition has been filed, dismissing him from retrospective effect, i.e. from the date of his conviction, when he was not admittedly in service.

3. Reliance is placed on a judgment involving the same facts in **Harbans Singh Vs. State of Punjab and Others**, CWP No.19781 of 2017, decided on 08.08.2024, which learned State counsel despite best efforts factually could not controvert, wherein, liberty had been granted to the respondents to pass appropriate order under Rule 2.2(a) of the Punjab Civil Services Rules, Vol-II, which was paid prospectively, while setting aside the impugned order of dismissal from service, the relevant paras reads thus:-

“8. It may be noticed that the petitioner retired from service on 31.12.2010. On the said date, the petitioner was not a convicted employee, though the criminal proceedings were pending against him. That being so, the question which arise is whether under the Rule governing the service, there is any jurisdiction with respondent/State to dismiss an employee, who has already retired, after attaining the age of superannuation.

9. Learned counsel for respondents has not been able to show any rules governing the service, according to which, the service of a retired employee can be terminated by the respondents. In the absence of any such rules shown to this Court it cannot be said that the order passed by the respondents terminating the services of the petitioner after his retirement is with any jurisdiction of respondents/State to pass such kind of order.

10. Even otherwise, a bare perusal of the impugned order 21.01.2013 (Annexure-P2) would show that the petitioner has been dismissed from the service from the date he has been convicted. It may be noticed that the petitioner was convicted on 01.08.2011 and on the said date also, the petitioner was a retired employee as he has already retired on 31.12.2010. This shows that what kind of application of mind was done by the authorities concerned while passing the impugned order dated 21.01.2013 (AnnexureP2). An employee who was not in service on 01.08.2011, is being dismissed by the respondents, which is totally arbitrary and illegal and without any jurisdiction.

11. At this stage, learned counsel for respondents submits that under Rule 2.2(a) of the Punjab Civil Services Rule, Vol-II, any employee who has been held guilty in a criminal case, action can be taken by the State and therefore, liberty be given to pass appropriate order under Rule 2.2(a) of the Punjab Civil Services Rules, Vol-II.

12. Learned counsel for the petitioner has not been able to rebut that under said Rule 2.2, the State can pass appropriate order with regard to the grant of pension after the conviction which reflect upon his moral.

13. Accordingly, the impugned order 21.01.2013 (Annexure P-

2) is set aside. The respondents are directed to release all the benefits which have been withheld after the passing of the impugned order dated 21.01.2013 (Annexure-P2) and arrears of pension be released to petitioner.

14. As the impugned order (Annexure-P2) was passed without any jurisdiction and the same is to be treated as nonest in the eyes of law and the petitioner will be eligible for the arrears of the pension and will also be entitled for interest at the rate of 6% per annum. However, the liberty is given to the respondents to pass appropriate order under the rule governing the service, in case the respondent intend to pass any order under rule 2.2 (a) of Punjab Civil Services Rules Vol.II, which will operate prospectively.

15. The writ petition is allowed in the above terms.”

3. In view of the above, the petition is disposed of in terms of **Harbans Singh** (supra).

4. Pending application(s), if any, stand disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

29.01.2025

Amandeep

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No