

(2013) 04 P&H CK 0168
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 17474 of 2012

Bahadur Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 26-04-2013

Acts Referred:

Citation : (2014) 2 ESC 669 : (2013) 4 SCT 322 : (2014) 1 SLJ 329

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Sanjiv Gupta, for the Appellant; Inder Pal Goyal, Addl. A.G., Punjab, for the Respondent

Judgement

Augustine George Masih, J.—Petitioner has approached this Court impugning the order dated 25.1.2010 (Annexure P-6) vide which the Chief Engineer (South) Punjab Water Supply and Sanitation Department, Patiala-respondent No. 2 has dismissed the petitioner from service with retrospective effect, after he has been allowed to retire on 31.10.2006 (Annexure P-I) and the order dated 18.6.2012 (Annexure P-12) vide which the appeal preferred by the petitioner was dismissed by the appellate authority. It is the contention of the counsel for the petitioner that the petitioner while working as Superintendent in Water Supply and Sanitation Division, Jalandhar was involved in a criminal case which was registered against him u/s 7 read with Section 13(2) of the Prevention of Corruption Act, 1988. Petitioner was allowed to retire from service on 31.10.2006 (Annexure P-I) and he was granted provisional pension. After the date of retirement, in the criminal case which was initiated against the petitioner, he was convicted by the Special Court, Gurdaspur on 9.1.2007. Against the said judgment, petitioner preferred an appeal in this Court i.e. Criminal Appeal No. 156-SB of 2007 which was dismissed by this Court. SLP No. 2035 of 2009 preferred by the petitioner was also dismissed by the Supreme Court on 9.4.2009. After the finalization of the criminal proceedings against the petitioner, the department proceeded to consider his claim and dismissed him from service

vide impugned order dated 25.1.2010 (Annexure P-6). Petitioner preferred an appeal against the order of dismissal which was also rejected by the Appellate Authority vide order dated 18.6.2012 (Annexure P-12). It is at this stage that the petitioner has approached this Court by filing the present petition challenging the two orders passed by the respondents.

2. It is the contention of the counsel for the petitioner that the petitioner once having been allowed to retire from service cannot be dismissed from service with retrospective effect as the maximum punishment which can be imposed upon the petitioner would be imposing those punishments as are permissible under the Punjab Civil Services Rules. He accordingly contends that the dismissal order with retrospective effect cannot be passed by the respondents. In support of this contention, reliance has been placed upon the judgment of the Supreme Court in the case of High Court of Punjab and Haryana Vs. Amrik Singh, . Reliance has also been placed upon the Division Bench judgment of this Court passed in Tarsem Singh Vs. The Punjab Scheduled Castes Land Development and Finance Corporation, titled as The Punjab Scheduled Castes Land Development and Finance Corporation v. Tarsem Singh decided on 28.1.2013. He accordingly contends that the impugned orders cannot sustain.

3. Counsel for the respondents, on the other hand, submits that the petitioner having been convicted in the criminal proceedings initiated against him, which order having attained finality upto the Supreme Court, the respondents have rightly dismissed the petitioner from service as he was not entitled to any service benefit. He contends that provisional pension of the petitioner was stopped by the respondents vide order dated 29.4.2008 (Annexure P-5). His contention is that the petitioner is not entitled to any benefit as has been claimed by him in the present writ petition. However, he could not dispute the fact that during the period when the petitioner was in service, no departmental proceedings were initiated against him.

4. I have considered the submissions made by the counsel for the parties and with their assistance have gone through the records of the case.

5. Facts as have been narrated above are not in dispute and, therefore, are not being referred herein again.

6. In my considered view, the claim of the petitioner as has been asserted by him in the present writ petition is covered in his favour by the ratio of the judgment passed by the Hon"ble Supreme Court in the case of Amrik Singh (supra) wherein it has been held that the competent authority is not entitled to pass an order of dismissal from service with effect from a later date from the date of retirement of the delinquent employee. Such an order would be a superfluous order. However, the competent authority would be entitled to pass appropriate orders as per the statutory rules which could include withholding, forfeiture or recovery of amount of pension etc. if the rules so provide. The issue is also decided in favour of the petitioner by the Division Bench of this Court in

Tarsem Singh's case (supra) which also supports his claim. In view of the above, impugned orders dated 25.1.2010 (Annexure P-6) and 18.6.2012 (Annexure P-12) are hereby quashed. Liberty is, however, granted to the respondents to pass appropriate orders in accordance with law as per the statutory rules.