
(2011) 02 P&H CK 0044
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 1167 of 2010. (O and M)

Gurdip Lal Chopra

APPELLANT

Vs

The Accountant General, Punjab (A and E) and Others

RESPONDENT

Date of Decision : 09-02-2011

Acts Referred:

Punjab Civil Services Rules — Rule 11.14, 11.17, 11.17A

Citation : (2011) 162 PLR 716

Hon'ble Judges : Surya Kant, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Surya Kant, J.—The Petitioner retired from the Punjab Superior Judicial Services in February, 1997 and the last office held by him was as District and Sessions Judge, Amritsar. The Petitioner at the time of his retirement got 40% of his pension commuted and has since then been receiving the monthly pension revised from time to time. The Petitioner received a letter dated 25.05.2007 [Annexure P-1] from the High Court informing that subject to the consent to be given by him, he was entitled to commutation of pension @ 50% in the revised scale [instead of 40% earlier allowed to him].

2. The Petitioner gave his consent and pursuant thereto, the Accountant General [Accounts and Entitlement], Punjab -Respondent No. 1 vide Memo dated 23.01.2008 [Annexure P-3] informed the Accountant General [AandE], Uttarakhand, Dehradun - Respondent No. 3 that due to resultant change in the rate of pension of the Petitioner he shall now get revised pension of Rs. 7085/-, followed by another communication dated 28.03.2008 [Annexure P-4] informing Respondent No. 3 that as a result of the revised commutation of pension, a sum of Rs. 1247/- is to be deducted from the Petitioner's monthly pension, A sum of Rs. 1,46,797/- was assessed to be the value of commuted pension payable to the Petitioner. It may be mentioned here that at that time, the Petitioner was settled at Dehradun and used to draw his pension through the District Treasury Officer at

Dehradun. The Chief Treasury Officer, Dehradun, though never paid the said additional commuted value of pension to the Petitioner, nevertheless started monthly deductions from the due date resulting into recovery of Rs. 24042/- from him in purported compliance of the Memo dated 28.03.2008 [Annexure P-4], Meanwhile the Petitioner has settled down at SAS Nagar [Punjab] and got his pension account transferred at Mohali.

3. The net effect of the above noticed exercise was that while the Petitioner received nothing towards the "additional commuted value of pension", his monthly pension stood reduced to the extent of Rs. 1247/- w.e.f. August, 2008. The Petitioner immediately brought this fact to the notice of the High Court and made a request to allow him to withdraw his consent for commutation of pension @ 50% in the revised pay scale. His request was immediately forwarded by the High Court vide letter dated 10.11.2008 [Annexure P-9] to Respondent No. 1. The Petitioner also sent a representation to Respondent No. 1 on 22.01.2009 [Annexure P-11] informing that no amount towards the additional commuted value has been received, yet his monthly pension was reduced w.e.f. August, 2008.

4. After the repeated representations made by the Petitioner to various authorities, the High Court vide its memo dated 23.05.2009 [Annexure P-16] informed Respondent No. 1 as follows:

I am directed to refer to your letter No. Pen-7/G-66-96-97/10845-47 dated 5.1.2009 on the above noted subject and to draw your kind attention towards the Rule 11.14 of the Punjab Civil Services Rules Vol. 11 which provides that the recovery of the amount of pension on account of commutation shall become operative from the date of receipt of commuted value of pension by the pensioner or three months after the issuance of authority whichever is earlier. But your office vide letter dated 28.3.2008 has directed for the date of payment of original commuted value of pension which is wrong as Shri G.L. Chopra, retired District and Sessions Judge has been paid nothing on account of revision of commutation of pension.

I am, therefore, to again request you to kindly reconsider the request of Shri G.L. Chopra for cancellation of revised authority for the payment of commuted value of pension as he has been paid nothing on account of revision of commutation of pension.

5. The representations/communications sent by the Petitioner or the High Court have been turned down by the 1st Respondent on the plea that the revised commutation of pension applied by a retired Officer and already sanctioned by the said Office "can not be rescinded as per Rule 11.17-A of the Punjab Civil Service Rules, Vol. II".

6. The aggrieved Petitioner has approached this Court.

7. The Respondents have filed reply/affidavit wherein it was nowhere mentioned

that the Petitioner was ever paid the commuted value pension @ 50% of the revised pay scale.

8. Having heard learned Counsel for the parties at some length and on perusal of the records, I find that Respondents No. 1, 3 and 4 have acted in a totally mechanical and arbitrary manner thereby causing un-warranted harassment and hardship to a retiree - the Petitioner. The solitary object of the information sent to the Petitioner by the High Court vide Memo dated 25.05.2007 [Annexure P-1] was to facilitate him to seek enhancement in the commutation of pension from 40 to 50%. The Petitioner gave his consent for the same legitimately expecting that he shall be paid the arrears of additional commuted pension. Without paying a single penny to him that the Respondents started effecting recovery from his monthly pension from August, 2008 onwards and without caring his repeated hue and cry that no additional value of the commuted pension has been paid to him.

9. Reliance placed upon Rule 11.17A to say that the order regarding commuted value of pension once passed with the consent of the Petitioner can not be rescinded is too atrocious to sustain. Suffice it to mention that Rule 11.17A would come into operation only when the commuted pension once applied for has been sanctioned and "given effect to". In the case in hand, nothing has been given effect as not a penny has been paid to the Petitioner on that count. Rule 11.17A ought not to have been read by the Respondents in isolation over-looking the provisions contained in Rule 11.14 which mandates that "the reduction in the amount of pension on account of commutation shall become operative from the date of receipt of the commuted value of the pension by the pensioner.....". The approach adopted by the contesting Respondents clearly exhibits non-application of their mind and an insensitive approach towards a retiree.

10. For the reasons afore-stated, the writ petition is allowed; the impugned order dated 01.07.2009 [Annexure P-17] declining the request of the Petitioner to withdraw his consent is quashed and the Respondents are directed to restore the Petitioner's pension as he used to get before August, 2008. The recovery/ deductions already made from the Petitioner's pension are directed to be refunded to him along with interest @12% per annum. The arrears shall be refunded to the Petitioner within a period of three months from the date a certified copy of this order is received. The Petitioner shall also be entitled to costs of Rs. 10,000/- for the harassment and mental agony caused to him.

11. Disposed of. Dasti.