
(2014) 05 P&H CK 0238
In the Punjab And Haryana At Chandigarh
Case No : CWP-9583-CAT-2006

K.B. Goel

APPELLANT

Vs

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and Others

RESPONDENT

Date of Decision : 21-05-2014

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2014) 05 P&H CK 0238

Hon'ble Judges : Sanjay Kishan Kaul, C.J.; Arun Palli, J

Bench : Division Bench

Advocate : K.L. Kohli, Advocate for the Appellant; Shekhar Verma, Advocate for Respondents Nos. 2 to 4, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Kishan Kaul, C.J.—The petitioner seeks to assail the order dated 14.03.2006 passed in O.A. No. 656/CH/2005 by the Central Administrative Tribunal, Chandigarh Bench which in effect has substantially granted relief to the petitioner.

2. The allegation against the petitioner which gave rise to the chargesheet is of serious and grave mis-conduct of distorting certain facts in the note-sheet in the matter of pay scales of Laboratory Attendants which resulted in issuance of a notification causing a huge loss to the government. The petitioner is stated to have paid a bribe to one Shri N.K. Jain for dropping the charges against him, but on fresh inquiry being conducted, the petitioner was visited with the penalty of 50 per cent cut in pension by the disciplinary authority on 30.10.2001 which was modified to one third cut in pension on appeal by the Advisor to the Administrator in terms of order dated 11.10.2002. However, the further challenge laid by the petitioner in O.A. No. 991/CH/2003 subsisted on technical grounds on 18.05.2004 on account of the powers to impose punishment being not available with the concerned authority.

3. It is in the background of the aforesaid that the petitioner faced seven charges of grave misconduct vide a memo dated 01.02.2001 including in respect of illegal gratification. We are informed that in one of the corruption cases, the petitioner obtained a clean acquittal on 30.05.2013, while in the other the petitioner has been convicted, while Shri N.K. Jain was acquitted and the appeal is pending before this Court.

4. The petitioner took various objections to departmental proceedings, but the charges were held to be duly proved and vide the order dated 11.04.2005 the entire pension of the petitioner was ordered to be withheld permanently. It is this order which was assailed by the petitioner in O.A. No. 656/CH/2005 which has resulted in the impugned order dated 14.03.2006.

5. In the impugned order, after discussing the conspectus of the matter, a finding was reached that the inquiry was properly held and the petitioner had been rightly found guilty. However, while dealing with the issue of quantum of punishment, the Tribunal opined as under:-

23. In the present case, we find that the cut in entire pension of the applicant permanently is strikingly very harsh and unconscionable even if, the gravity of charges warrants severest punishment, delinquent's right to life to him and his family's survival under Article 21 of the Constitution cannot be taken away. Moreover, applicant has retired five years back, therefore, referring the matter to authorities concerned would further protract his case. Thus, in our considered opinion, interest of justice would be met if the matter of cut in entire pension is modified to the extent of one third cut in pension permanently. We order accordingly.

24. For the foregoing reasons, Original Application is partly allowed and respondents are directed to pass appropriate orders to make the payment of arrears of the pension in full from 01.11.2001 to 11.04.2005 and thereafter to calculate arrears as per modified order of penalty to one third cut in pension. Needful be done within the period of two months from the date of receipt/production of copy of this order.

6. The sole point urged before us by learned counsel for the petitioner is that this cut in pension to the extent of one third cannot operate permanently and it should have been with a qualification as to the time period.

7. The second limb of submission sought to be advanced was that para 24 quoted aforesaid had not been implemented.

8. But that appeared to be on account of the fact that in a cross-petition filed by the respondents, there was interim stay. However, that cross petition being CWP-7411-CAT-2006 already stands decided by us on 20.03.2014. There appears to be, thus, no impediment in the implementation of that portion of the order.

9. Learned counsel for the petitioner has referred to the Punjab Civil Services

Rules (Volume II) and Chapter II, Section I, Rule 2.2(a). However, the same ex-facie has no application to the controversy in question as that pertains to recoveries to be made from the pension, while the relevant Rule would be Rule 2.2(b). The portion applicable is quoted as under:-

(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 specified 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 or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence, during his service including service rendered on re-employment after retirement.

10. A reading of the aforesaid, thus, clearly shows that the government reserves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period.

11. Thus, there can be no doubt about the validity of such a permanent withholding of pension. In the conspectus of the matter, we are of the view that the Tribunal has been more than considerate in interfering with the punishment and reducing the cut to only one third, albeit permanently, keeping in mind the gravity of the allegations proved against the petitioner. The petitioner has already been held entitled to arrears of pension in full from 01.11.2001 to 18.04.2005 and the cut is applicable only thereafter and this portion of the order assailed in CWP-7411-CAT-2006 has been specifically upheld.

12. We, thus, find no merit in the writ petition.

13. Dismissed.