IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

222 **CWP-12004-2021 (O&M)**
DATE OF DECISION : 28.10.2025

HARDEEP SINGH **... PETITIONER**

V/S

STATE OF PUNJAB AND OTHERS **... RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. Sunny Singla, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG Punjab.

Mr. Malkeet Singh Balianwali, Advocate and
Mr. Sangeet Pal Singh, Advocate for
respondents No.5 and 6.

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DEEPINDER SINGH NALWA, J. (ORAL)

1. In the present writ petition, the petitioner has challenged the enquiry report dated 28.07.2016 (Annexure P-12) and the impugned orders dated 14.11.2018 (Annexure P-15), 10.01.2020 (Annexure P-20) and 17.09.2020 (Annexure P-21) vide which a punishment of 5% cut in pension for five years has been imposed upon the petitioner.

2. The brief facts of the case are that the petitioner joined the services with the respondent authorities as Art and Craft teacher in the year 1974. On attaining the age of superannuation, the petitioner retired from service on 30.04.2014. The petitioner was granted extension for a period of one year after attaining the age of superannuation, i.e. from 01.05.2014 to 30.04.2015, vide order dated 29.04.2014. During the period of extension, the

petitioner was served with a charge sheet dated 24.04.2015 (Annexure P-3). The petitioner duly filed reply to the said charge-sheet. However, the reply filed by the petitioner to the above said charge sheet was not found to be credit worthy, and as a consequence, an Inquiry Officer was appointed by the respondents. The Inquiry Officer submitted his report dated 28.07.2016 (Annexure P-12), whereby the charges levelled against the petitioner was proved. The Punishing Authority, after taking into consideration the Inquiry Report submitted by the Inquiry Officer, passed an order dated 14.11.2018 (Annexure P-15), vide which, punishment imposing 5% cut in penion on permanent basis was passed. Aggrieved against the above said order dated 14.11.2018 (Annexure P-15), petitioner filed Civil Writ Petition No.6429 of 2019 (annexure P-16) before this Court. The above said writ petition was withdrawn by the petitioner with liberty to file an appeal before the Appellate Authority. Thereafter, the petitioner filed an appeal before the Appellate Authority and was given a personal hearing. The Appellate Authority modified the order of punishment dated 14.11.2018 (Annexure P-15) to an extent that 5% cut in pension on a permanent basis was reduced to a period of 07 years vide order dated 10.01.2020 (Annexure P-20). Aggrieved against the above said order dated 10.01.2020, the petitioner approached the higher Authority. The higher Authority vide order dated 17.09.2020 modified the order dated 10.01.2020 to an extent that 5% cut in pension for 07 years was reduced to 05 years. Aggrived against the above said order, the petitioner has thus filed the present writ petition.

3. Learned counsel appearing on behalf of the petitioner submits that even for the sake of arguments, if it is presumed that there is no

illegality in the enquiry and charges are proved, even then, as there were no charges in the charge-sheet in regard to causing loss to the State exchequer, as such, the cut in pension could not be imposed by the respondents. Reliance is placed on a judgment passed by the Hon'ble LPA Bench in **LPA-340-2017** titled as ***Gurcharan Singh Vs. State of Punjab and others;*** decided on 08.02.2023.

4. Learned counsel appearing on behalf of the respondents submits that as the charges were duly proved against the petitioner by the Enquiry Officer, and as it amounts to grave misconduct, therefore, 5% cut in pension for five years could have been imposed upon the petitioner and as such the impugned orders are legal and valid.

5. I have heard learned counsel for the parties at some length and have perused the record with their able assistance.

6. A perusal of the facts of the present case would show that charge-sheet dated 24.04.2015 (Annexure P-3) was issued to the petitioner. Relevant charges are reproduced below for reference:-

> *"Charges against: Sh. Hardeep Singh, Art & Craft Teacher, Government High School Jai Singh Wala (Bathinda).*
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> *Charge against Sh. Hardeep Singh, Art & Craft Teacher, Government High School Jai Singh Wala (Bathinda) is that:-*
>
> *Charge No.1 Non Cooperation in the School functions.*
>
> *Charge No.2 To create indiscipline and immoral activities against girls students.*
>
> *Charge No.3 To beat the students and to indulge wrong activities with their sisters."*

7. A perusal of the abovesaid charges in the charge-sheet would show that the charges do not refer to any loss caused to the State exchequer. It is a conceded case between the parties that on the basis of the abovesaid

charge-sheet, the impugned order dated 17.09.2020 (Annexure P-21) has been passed vide which punishment of 5% cut in pension of the petitioner for a period of five years has been imposed. As per the judgment passed by the Division Bench of this Court in **Gurcharan Singh's case (supra)**, after considering Rule 2.2 (b) of Punjab Civil Services Rules, it has been held that if there is no loss caused to the State exchequer, punishment of cut in pension cannot be imposed. Relevant extract of the judgment is reproduced hereinunder:-

> *"Counsel for the appellant, inter alia, contended that as per Rule 2.2 of the Rules, recovery from pension can be made as a punitive measure in order to make good loss caused to the Government as a result of negligence or fraud on the part of the person concerned while he was in service. Admittedly, the enquiry officer, who conducted the enquiry against the appellant in the instant case categorically recorded that no financial loss has been caused to the Municipal Council in spite of the deviation in the procedure for execution of the works done under his supervision by the Municipal Council. The enquiry officer even noted that the appellant had issued certain audit requisitions in audit report of 2009-2010 protesting against the procedure of execution of work through quotations instead of inviting tenders. But inspite of the same, the officials of the Municipal Council ignored his protest and continued to get the works executed by inviting quotations instead of calling for tenders. Since the work pertained to manholes and was claimed to be of urgent nature by Executive officer of the Municipal Council, who claimed to have been authorized through Government letter dt.24.08.2008 to spend Rs. 20,000/- on immediate expenses if there is an urgency or immediate need to get the work done, and the appellant had protested, he cannot be prima facie accused of being negligent merely because he did not take further instructions from the Head Office as was held by the enquiry officer. Counsel contended that even respondent No.1, who passed the impugned order, gave no categorical finding that there was loss caused to the Municipal Council though he doubted the correctness of the finding of the enquiry officer that there was only procedural lapses and no financial loss.*
>
> *We find force in the above contentions.*

In the absence of any finding against the appellant that he was responsible for causing financial loss to the Municipal Council either by the enquiry officer or by respondent No.1, it was not open to the learned Single Judge to give a finding that financial loss was caused to the Municipal Council on the basis of assumptions and presumptions without any material on record.

Only if there is a finding of financial loss caused to Government by the enquiry office or respondent no.1, Rule 2.2(b) of the Rulescan be invoked*. It permits recovery of pension after it has been sanctioned as a punitive measure in order to make good loss to the Government on account of negligence on the part of an employee.*

In the absence of any finding of loss caused to the Government either by the enquiry officer or by respondent No.1, no recovery from pension could have been ordered as a punitive measure by the respondents.

Therefore, this Appeal is allowed; the judgment dt.18.11.2016 passed by the learned Single Judge in CWP-3418-2014 and the impugned order dt.21.05.2013 (P6) passed by respondent No.1 are set aside; and the respondents are directed to pay back to the appellant the amounts deducted from his pension from 21.05.2013 till date with interest @ 6% per annum from the date of such deduction till the date of repayment."

8. Reliance is also made on a judgment passed by a Co-ordinate Bench of this Court in **CWP-16813-2018** titled as **'Paramjit Vs. State of Punjab and others'**; decided on 13.09.2024. Relevant extract of the judgment is reproduced hereinunder:-

"It is a conceded case between the parties that as per the allegations alleged in the charge-sheet, on the basis of which the impugned order of punishment has been passed (Annexure P-13), there is no allegation of causing any loss to the State exchequer and the charge is only with regard to the not performing of the particular duties assigned to him.

6. As per the judgment of the Division Bench of this Court in ***Gurcharan Singh's case (supra)****, where there is no loss caused to the State exchequer, the cut in pension cannot be imposed. The relevant paragraph of the said judgment is as under:-*

"Counsel for the appellant, inter alia, contended that as per Rule 2.2 of the Rules, recovery from pension can be made as a punitive measure in order to make good loss caused to the Government as a result of negligence or fraud on the part of the person concerned while he was in service. Admittedly, the enquiry officer, who conducted the enquiry against the appellant in the instant case categorically recorded that no financial loss has been caused to the Municipal Council in spite of the deviation in the procedure for execution of the works done under his supervision by the Municipal Council. The enquiry officer even noted that the appellant had issued certain audit requisitions in audit report of 2009-2010 protesting against the procedure of execution of work through quotations instead of inviting tenders. But inspite of the same, the officials of the Municipal Council ignored his protest and continued to get the works executed by inviting quotations instead of calling for tenders. Since the work pertained to manholes and was claimed to be of urgent nature by Executive officer of the Municipal Council, who claimed to have been authorized through Government letter dt.24.08.2008 to spend Rs. 20,000/- on immediate expenses if there is an urgency or immediate need to get the work done, and the appellant had protested, he cannot be prima facie accused of being negligent merely because he did not take further instructions from the Head Office as was held by the enquiry officer. Counsel contended that even respondent No.1, who passed the impugned order, gave no categorical finding that there was loss caused to the Municipal Council though he doubted the correctness of the finding of the enquiry officer that there was only procedural lapses and no financial loss.

We find force in the above contentions.

In the absence of any finding against the appellant that he was responsible for causing financial loss to the Municipal Council either by the enquiry officer or by respondent No.1, it was not open to the learned Single Judge to give a finding that financial loss was caused to the Municipal Council on the basis of assumptions and presumptions without any material on record.

Only if there is a finding of financial loss caused to Government by the enquiry office or respondent no.1, Rule 2.2(b) of the Rulescan be invoked. It permits recovery of pension after it has been sanctioned as a punitive measure in order to make good loss to the Government on account of negligence on the part of an employee.

In the absence of any finding of loss caused to the Government either by the enquiry officer or by respondent No.1, no recovery from pension could have been ordered as a punitive measure by the respondents.

Therefore, this Appeal is allowed; the judgment dt.18.11.2016 passed by the learned Single Judge in CWP-3418-2014 and the impugned order dt.21.05.2013 (P6) passed by respondent No.1 are set aside; and the respondents are directed to pay back to the appellant the amounts deducted from his pension from 21.05.2013 till date with interest @ 6% per annum from the date of such deduction till the date of repayment."

*7. Learned State counsel has not been able to rebut the contention that as in the present case, there is no allegation with regard to the embezzlement or causing loss to the State exchequer, the judgment in **Gurcharan Singh's case (supra)** will be applicable.*

*8. Keeping in view the above, the present writ petition is allowed. The impugned order dated 20.04.2018 (Annexure P-13) is set aside. The respondents are directed to pass a fresh order of punishment upon the petitioner, which is commensurate to the Rules governing the service as well as the judgment of the Division Bench of this Court in **Gurcharan Singh's case (supra)**.*

9. Any recovery which has been done from the petitioner in pursuance to the impugned order dated 20.04.2018 (Annexure P-13), which has now been set aside, be refunded back to the petitioner within a period of eight weeks of the receipt of copy of this order."

9. Learned State counsel has not been able to rebut the contention raised by the petitioner in the present writ petition. There is no allegation against the petitioner with regard to embezzlement or causing loss to the State exchequer. As such, the judgments referred above, would be applicable

in the case of the present petitioner.

10. Taking into consideration the facts of the case and the judgment passed by this Court in ***Gurcharan Singh's case (supra) and*** **Paramjit's case (supra),** the present writ petition is allowed. The impugned order dated 17.09.2020 (Annexure P-21) is hereby quashed. Any recovery effected from the pension of the petitioner in pursuance of the abovesaid impugned order, which now stands quashed, shall be refunded to the petitioner within a period of eight weeks from the date of receipt of certified copy of this order.

11. The writ petition is allowed in the abovesaid terms.

28.10.2025 **(DEEPINDER SINGH NALWA)**
Rimpal **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : Yes