



**234-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-12845-2023
Date of decision: 26.11.2025

Mohinder SinghPetitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashutosh Kaushik, Advocate
for the petitioner.

Mr. Piyush Khanna, Addl.A.G., Haryana.

Mr. Padamkant Dwivedi, Advocate and
Ms. Ayushi, Advocate
for respondents No.2 & 3.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 25.07.2022 (Annexure P-13) passed by the Appellate Authority, order dated 07.02.2022 (Annexure P-10) passed by the Punishing Authority vide which recovery of Rs.6,58,308/- has been imposed on the petitioner and further to quash the enquiry report dated 03.06.2021 (Annexure P-5), order dated 12.05.2021 (Annexure P-4) and charge sheet dated 18.08.2016 (Annexure P-1).

2. Learned counsel for the petitioner *inter alia* contends that the impugned charge sheet was issued on 18.08.2016, whereas, the petitioner retired on 30.09.2020. However, the disciplinary proceedings continued post

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retirement and culminated on 07.02.2022 when the punishment of recovery was imposed. The statutory appeal filed by the petitioner was dismissed on 25.07.2022. He further submits that the impugned order of punishment and the impugned order passed by the learned Appellate Authority, is liable to be dismissed on the sole ground that there is no statutory mandate either to continue or initiate disciplinary proceedings post retirement of the petitioner. Once the petitioner has retired, the jural relationship between the employee and the employer stands extinguished and the authorities concerned are severed with the jurisdiction to either continue disciplinary proceedings or pass a punishment order.

3. The order of punishment is sought to be justified by learned counsel for the respondents by relying upon Rule 2.2 (b) of the Punjab Civil Services Rules which provides for withholding of pension on account of loss suffered by the respondent-Corporation due to the misconduct of an employee. However, the aforesaid provisions are not applicable to the petitioner as the respondent-Corporation is not a pensionary establishment, therefore, the retired employees are not entitled to pension.

4. I have heard learned counsel for the parties and on perusal of the record, it transpires that the petitioner retired on 30.09.2020, whereas the disciplinary proceedings which initiated before retirement culminated in punishment order dated 07.02.2022 and further, the appellate authority dismissed the appeal via order dated 25.07.2022. The Court finds that the reliance placed by learned counsel for the respondents upon Rule 2.2(b) of the Punjab Civil Services Rules is misfounded as it applies only to pensionary



establishments and the respondent-Corporation, admittedly, does not provide pension to its employees.

5. At this stage, it would be profitable to refer to the judgment rendered by a two Judge Bench of the Hon'ble Supreme Court in '**Bhagirathi Jena Vs. Board of Directors, OSFC**', (1999) 3 SCC 666, which speaking through Justice S.S. Mohammed Quadri, opined as follows:

*“ 5. In view of the absence of such provisions in the above said regulations, it must be held that the Corporation had no legal authority to make any reduction in the retiral benefits of the appellant. **There is also no provision for conducting a disciplinary enquiry after retirement of the appellant and nor any provision stating that in case misconduct is established, a deduction could be made from retiral benefits. Once the appellant had retired from service on 30.6.95, there was no authority vested in the Corporation for continuing the departmental enquiry even for the purpose of imposing any reduction in the retiral benefits payable to the appellant. In the absence of such authority, it must be held that the enquiry had lapsed** and the appellant was entitled to full retiral benefits on retirement.”*

(emphasis supplied)

6. Moving on, the issue of effecting recovery from pension after retirement had come up for consideration before the Hon'ble Supreme Court on multiple occasions. In '**State of Punjab and others Vs. Rafiq Masih (White Washer) and others**' 2015 (4) SCC 334, a two-Judge Bench of the Hon'ble Supreme Court has categorically held that recovery from retired employees is impermissible in law. Speaking through Justice Jagdish Singh Khehar, the following was observed:

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement.

Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law:

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service)*
- (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.**
- (iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*
- (v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”*

7. In view of the discussion above, the present writ petition is allowed. The impugned order dated 25.07.2022 (Annexure P-13) passed by the Appellate Authority, order dated 07.02.2022 (Annexure P-10) passed by the Punishing Authority and the related enquiry proceedings are hereby set aside. The respondents are directed to release the amount recovered along with an interest @ 6% from the date of recovery till its actual realization to the petitioner within a period of three months from the date of receipt of certified copy of this order.

(HARPREET SINGH BRAR)
JUDGE

26.11.2025

Neha	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No