IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

214 **CWP-22546-2012**
Date of Decision: August 05, 2025

Supinderpal Singh **......Petitioner**

Vs.

Punjab State Civil Supplies Corporation Ltd. and another **......Respondents**

CWP-12140-2015

Supinderpal Singh **......Petitioner**

Vs.

Punjab State Civil Supplies Corporation Ltd. and another **......Respondents**

CORAM: HON'BLE MR. JUSTICE ROHIT KAPOOR

Present: Mr.Parveen Kumar Garg, Advocate
for the petitioner.

Mr. Anil Kumar Sharma, Advocate
for the respondents in CWP-22546-2012

Mr. Jasdeep Singh Salooja, Advocate for
Mr. Deepak Sabharwal, Advocate
for the respondents in CWP-12140-2015

ROHIT KAPOOR J. (ORAL)

The present petitions, as detailed in the head note above, are being disposed of by way of a common order, since they involve similar questions of law and fact and are between the same parties.

2. The prayer in CWP-22546-2012 is for setting aside the impugned order dated 20.04.2011 (Annexure P-1), whereby the retiral dues of the petitioner were ordered to be withheld on account of pending departmental cases/recovery etc. Further prayer has been made for issuance of directions to the respondent to release the retiral benefits of the petitioner alongwith interest @ 18% per annum.

3. The second petition, has been filed by the petitioner for setting aside the subsequent charge-sheet dated 30.04.2015 (Annexure P-2) alongwith all consequential proceedings *inter alia* on the ground that the same is without any jurisdiction.

4. Brief facts necessary for adjudication of the aforementioned petitions filed by the petitioner are that the petitioner was working with the respondent-Corporation, i.e. Punjab State Civil Supplies Corporation Limited and was retired vide order dated 20.04.2011 (Annexure P-1), after attaining the age of superannuation on 30.04.2011. At the time of passing of order dated 20.04.2011, it was ordered that due to the pending departmental cases, recovery etc, retiral benefits shall be withheld and his retirement shall be subject to the decision in the pending departmental cases, as well as subject to any cases initiated in future. The petitioner challenged the order dated 20.04.2011 (Annexure P-1) to the extent that his retiral benefits were withheld, *inter alia* on the ground that apart from the show cause notice (Annexure P-2), no other disciplinary proceedings were pending against him and that the respondent-Corporation could only withhold the retiral benefits to the extent of the ratio of responsibility of the staff as per Annexures P-10 and P-11 respectively.

5. Learned counsel for the petitioner submits that as regards the dispute involved between the petitioner and respondent-Corporation in CWP-22546-2012, it has come on record that in pursuance to the Show Cause Notice dated 14.11.2006, the petitioner was held liable for causing alleged loss of Rs.1,50,550/- to the respondent-Corporation. He refers to the affidavit dated 13.10.2015, filed on behalf of respondent-Corporation and submits that undisputedly, out of the aforementioned amount, an amount of Rs.80,045/- already stands recovered from the petitioner and states that the petitioner is agreeable if the remaining balance amount of Rs.70,505/- is recovered by the respondent from his retiral dues and the balance amount is released in his favour alongwith interest.

6. As regard the issue involved in CWP-12140-2015, it is submitted that the same stands adjudicated by a Co-ordinate Bench of this Court in a bunch of writ petitions, including CWP-5254-2005 decided on 30.09.2019, "***Nirmal Singh Vs. Punjab State Civil Supplies Corporation Ltd. (PUNSUP),*** wherein it has been *inter alia* held that in the absence of any rule, the respondent-Corporation does not have any jurisdiction to continue with disciplinary proceedings after the retirement or to initiate disciplinary proceedings against the retired employee.

7. Learned counsel for the petitioner further contends that as is apparent from the reading of the order passed in **Nirmal Singh's** case**,** supra, a categoric statement was made on behalf of the respondent-Corporation that a decision has been taken to file all the charge-sheets, which are pending against the retired employees for conducting disciplinary proceedings, albeit with the condition that the allegations, which are being alleged against the retired

employees in those charge-sheets, will be inquired into under a fact finding enquiry, wherein the employees have an option to associate themselves and in case they exercise the said option, the authorities of the Corporation will initiate appropriate process of filing a civil suit to recover the amount, in case it is found in the enquiry that the particular employee has caused loss to the corporation, due to his/her act of omission or commission, as the case may be.

8. In view thereof, learned counsel for the petitioner submits that the subsequent charge-sheet dated 30.04.2015 (Annexure P-2) is required to be filed, as already conceded by the respondent-Corporation in CWP-5254-2005 and retiral dues and benefits of the petitioner be released in his favour alongwith interest, after deducting the balance amount of Rs.70,505/-.

9. Learned counsel appearing on behalf of the respondents are unable to controvert the legal position that the charge-sheet dated 30.04.2015 (Annexure P-2) is required to be filed as has been done in the case of similarly situated employees in pursuance to the statement made in **Nirmal Singh**'s case. Learned counsel for the respondent also do not dispute the fact that an amount of Rs.80,045/- already stands recovered from the petitioner and only an amount of Rs.70,505/- is required to be recovered as specifically stated in the affidavit dated 13.10.2015 filed on behalf of the respondent-Corporation. It is however, submitted that liberty be granted to the respondent-Corporation to conduct a fact finding enquiry and to recover any loss, which may have been caused by the petitioner, by having recourse to the remedy as available to the respondent, in accordance with law.

10. I have heard the learned counsel for the parties and have perused the record carefully.

11. It is not disputed that the issue pertaining to the impugned charge-sheet dated 30.04.2015 (Annexure P-2) and release of pensionary benefits alongwith interest, already stands adjudicated by a Co-ordinate Bench of this Court in **Nirmal Singh**'s case (supra). The relevant paragraphs of the decision dated 30.09.2019 are reproduced as under:-

> *"A bare perusal of the above would show that question of law raised in these petitions has already been decided more than once by the Hon'ble Supreme Court of India as well as by this Court holding that without there being any specific rule giving jurisdiction to an employer to initiate disciplinary proceedings after retirement or to continue the disciplinary proceedings after retirement, employer cannot initiate disciplinary proceedings against an employee who has already retired from service and cannot continue the proceedings against him/her after his/her retirement though, the same have been issued during his service career.*
>
> *Nothing has been shown to this Court as to whether any rule governing the service authorises the respondent-PUNSUP either to continue with the charge sheet, served upon an employee during his service career, even after his retirement or to initiate disciplinary proceedings after the retirement of an employee. In the absence of any rule, it can be safely held that the respondent-PUNSUP does not have any jurisdiction to continue with the disciplinary proceedings after the retirement or to initiate disciplinary proceedings*

against the retired employee. As per the law laid down in ***Bhagirathi Jena's case (supra)****;* ***Chandra Singh's case (supra); S.C. Jain's case (supra)*** *and* ***Jogi Ram's case (supra)****, the employer only gets right to issue charge sheet to initiate disciplinary proceedings against retired employee or to continue with the disciplinary proceedings after retirement of an employee in case any rule governing the service permits the same and in the absence of any such rule, there is no jurisdiction with the employer to initiate disciplinary proceedings against an employee after retirement or to continue the disciplinary proceedings after retirement.*

Further, reliance placed upon Rule 2.2 of Punjab Civil Service Rules, by the respondent-PUNSUP, which grants power to an employer to continue with the proceedings initiated against an employee during his service career, even after his retirement or to initiate disciplinary proceedings in respect of the charges, which are not four years old at the time of initiating of the disciplinary proceedings, is not applicable upon the employees of PUNSUP. This is for the reason that the said rule 2.2 of Punjab Civil Services Rules only allows the department to impose cut in pension, whereas, the employees working with the PUNSUP does not enjoy the benefit of pension after their retirement.

Faced with this, learned counsel for the respondent/ PUNSUP states that though, PUNSUP might not have the *jurisdiction to initiate disciplinary proceedings after the retirement of its employees or to continue with the disciplinary proceedings after retirement, keeping in view the provisions in the rules governing the service as they exist as of today, but department is well within its jurisdiction to recover the amount of loss caused by an employee after following due procedure of law by filing a civil suit after prima facie being convinced that the employee has caused loss due to his act of commission or omission, as the case may be, by holding a fact finding enquiry into the allegations alleged in the charge sheets.*

Counsel for the respondent/ PUNSUP argues that this Court while deciding CWP-26728 of 2014 titled as ***Gurinder Singh vs. Punjab Agro Industries Corporation (PAIC) Ltd*** *on 24.01.2017 has held that though, it might not be within the jurisdiction of an institution to initiate disciplinary proceedings against a retired employee or to continue with the disciplinary proceedings against the retired employee, but the institution is well within its right to hold a fact finding enquiry and file a civil suit to implement the recommendations of the fact finding enquiry in case it is established that loss has been caused to the employer due to an act of omission or commission of an employee so as to recover the said loss. Learned counsel further states that decision which has been taken by respondent/ PUNSUP is on* *the basis of law as settled by this Court in **<u>Gurinder Singh's</u>** case (supra).*

x x x x x

Learned counsel appearing on behalf of the PUNSUP states that keeping in view the settled legal position, it has been decided by the PUNSUP to file all the charge sheets, which are pending against the retired employees for conducting disciplinary proceedings but the same is done with condition that the allegations, which are being alleged against the retired employees in those charge sheets will be enquired into as a fact finding enquiry, wherein the employees have an option to associate themselves in case they exercise said option and the authorities in PUNSUP, will initiate appropriate process of filing the civil suit to recover the amount, in case in the fact finding enquiry, it is found by the department/PUNSUP that a particular employee has caused loss to the PUNSUP due to his/her act of commission or omission, as the case may be.

x x x x x

After giving thoughtful consideration to the contentions of the learned counsel for the parties, I have reached to a conclusion that charge sheets have been filed on the ground that PUNSUP did not have jurisdiction to initiate the disciplinary proceedings after retirement or to continue with the disciplinary proceedings after retirement of the *employees, withholding of the retiral benefits by the respondent-PUNSUP was beyond their jurisdiction. A retired employee is entitled for the release of his/her pensionary benefits within a reasonable time after retirement so as to lead a dignified life. Once the benefits were withheld by the respondent/PUNSUP without there being any jurisdiction, the said action which was beyond the jurisdiction of the respondents, cannot cause prejudice to the petitioners. Once the respondents themselves have filed the charge sheets after reconsideration, it clearly means that there was no valid power with the respondents to initiate disciplinary proceedings by issuing those charge sheets on account of which retiral benefits were withheld, therefore, withholding of the retiral benefits, was based upon the said illegal act, hence, once the act of the respondents withholding the retiral benefits was without justification/jurisdiction, an employee needs to be compensated for the said illegal act, due to which the employee has suffered prejudice, in view of the law laid down in* ***A.S. Randhawa's*** *case (supra).*

x x x x x

"The argument of the learned counsel for the respondents that the proceedings against the petitioners have not come to an end and the respondents will have right to recover the amount of loss, if any, by availing the appropriate remedy of filing suit for recovery and, hence, no interest is liable to be

paid, cannot be accepted. As of today, retaining of the amount of pensionary benefits i.e. gratuity and leave encashment is without any valid justification as no impediment in the release of the same is cited before this Court. In the absence of any valid impediment for the release of the pensionary benefits, same cannot be retained. Respondents have remedy to recover the amount of loss. In case, at any subsequent given point of time, it is found that the respondents are entitled for the recovery of any loss, which a particular employee has caused, the same can be recovered with interest but merely on probabilities, an employee, who is entitled for release of the retiral benefits cannot be denied the same only on the ground that tomorrow, he/she might be held liable for making good the loss. Respondents are directed to release all the withheld pensionary benefits of the petitioners, in case there is no other impediment in the release of the same.

Petitioner(s) are also held entitled for interest @ 7% per annum on the delayed release of retiral benefits by the respondents after the charge sheets have been filed. Interest shall be calculated from the date of expiry of two months after the retirement of the petitioner(s), till the same is actually released to them.

Let computation of the interest, for which the petitioner (s) are entitled as per this order be carried out within a period of two months from the date of receipt of certified copy *of this order and the payment so calculated be released to the petitioner(s) within a period of one month thereafter.*

It is made clear that this order in no way restrains the respondent-PUNSUP to recover the amount from any employee, in case it is found in the fact finding enquiry that a particular employee has caused loss with the act of omission and commission due to which, the Corporation has suffered loss. The said recovery of the loss will only be done by filing an appropriate civil suit before the competent Court of law."

12. In view of the un-controverted position that the case of the petitioner is squarely covered by the decision of a Co-ordinate Bench of this Court in **Nirmal Singh**'s case (supra), the present petitions are allowed and the impugned charge-sheet dated 30.04.2015 (Annexure P-2) in CWP-12140-2015 is set aside and the order dated 20.04.2011 as impugned in CWP-22546-2012 is set aside partially, with a direction to the respondents to release all the withheld pensionary/retiral benefits of the petitioner, in case there is no other impediment in the release of the same, after deducting the balance amount of Rs.70,505/-.

13. The petitioner is also held entitled for interest @ 7% on the delayed release of the retiral benefits, by the respondents, which shall be calculated from the date of expiry of two months after retirement of the petitioner, till the same is actually released in his favour. The computation of the interest, for which the petitioner is entitled, shall be done within a period of two months from the date of receipt of certified copy of this order and the payment of the calculated amount, be released to the petitioner within a period of one month thereafter.

14. It is made clear that respondent-Corporation shall be at liberty to recover any loss that may have been caused by the petitioner by any act of omission and commission, after conducting a fact finding enquiry and the said loss, if any, may be recovered by filing an appropriate civil suit before the competent Court of law.

15. All misc. application(s), if any, also stand disposed of.

(ROHIT KAPOOR)
JUDGE

August 05, 2025
sonia arora

Whether speaking/reasoned:	Yes
Whether reportable:	Yes