



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-14693-2023 (O&M)

Date of decision: 02.04.2025

Liyakat Ali

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Raman B. Garg, Advocate and
Mr. Mayank B. Garg, Advocate for the petitioner.

Mr. Rahul Dev, Addl. AG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. Claiming promotion to the post of District Development & Panchayat Officer w.e.f. 29.05.2008 when his juniors had been promoted alongwith all consequential benefits arising therefrom including the revision of retiral benefits, the present writ petition has been filed by the petitioner.
2. Learned counsel appearing on behalf of the petitioner submits that he was appointed to the post of Social Education and Panchayat Officer following his selection by the Subordinate Services Selection Board, Haryana (as it was then known), pursuant to which he joined the service on 06.08.1981. Subsequently, the petitioner was granted an ad hoc promotion to the post of Block Development and Panchayat Officer on 28.09.1992, which was later regularised on 07.09.1995 upon the availability of a vacancy within the promotional quota. Thereafter, the respondents published a final seniority list of Block Development and Panchayat Officers as it stood on 01.01.2008. In



this list, the petitioner was placed at seniority position number 19, which ranked him higher than several individuals, namely Ashok Kumar, Narender Singh Chauhan, Surender Kumar, Deepak Kumar Yadav, Shemsher Singh Nehra, and Narender Singh, who were placed at serial numbers 25, 33, 34, 45, 42, and 43 respectively. He submits that despite his seniority, the respondents proceeded to initiate the process for promotion to the post of District Development and Panchayat Officer from amongst eligible Block Development and Panchayat Officers on 29.05.2008, with the process having been formally endorsed on 30.05.2008. Claim of the petitioner was however ignored for the reasons as under:-

“2. *The promotion of above Block Development & Panchayats Officers to the post of District Development & Panchayats Officers is further subject to the right of S/Sh. Narender Kumar Malhotra, Vikram Singh, Balraj Singh, Arvind Malik, Amar Chand Kaushik, Virender Singh, Liaqat Ali, C.S. Dalal, S.P. Malik, Balwant Singh, Vijay Kumar Chalia, Ishwar Chand Pundir, Jag Ram Maan and Balraj Singh, Block Development & Panchayats Officers against whom criminal/disciplinary cases under rule 7 are pending. Further the promotion of the above Legal Officers, is subject to the right of S/Sh. R.N. Sharma and Subhash Chander, Legal Officers against whom disciplinary proceedings under rule 7 are pending.*”

3. It is contended that the promotion orders issued in favour of the



petitioner's juniors were made subject to the final outcome of the pending disciplinary proceedings which, allegedly, had been initiated under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 against the petitioner. It is submitted that, in fact, a charge-sheet was served upon the petitioner on 29.05.2008 i.e. the very date on which the promotion process was initiated reflecting an act of malice intended to deliberately exclude the petitioner from consideration for promotion. The petitioner subsequently superannuated from service on 30.04.2011, however, the respondent-Department continued to withhold his retiral dues due to the pendency of the said charge-sheet and non-finalisation of the disciplinary proceedings.

4. Eventually, by way of order dated 16.09.2015, the disciplinary proceedings were dropped, as the charges levelled against the petitioner could not be substantiated.

5. It is further submitted that following the closure of the departmental proceedings, the petitioner approached the respondent-authorities seeking promotion with effect from the date on which his juniors were promoted, along with all consequential financial benefits, including re-fixation of his Assured Career Progression (ACP) benefits with effect from 01.01.2006.

6. He submits that the benefit of re-fixation of the date of ACP has already been granted to the petitioner, however, his claim for promotion to the post of District Development & Panchayat Officer w.e.f the date his juniors were promoted was declined by the respondent-Department vide order dated 19.06.2023 which reads thus:-



“From

*Additional Chief Secretary, Government of Haryana,
Development and Panchayat Department.*

To

*Sh. Liaqat Ali,
Block Development and Panchayat Officer (Retd.)
Village Chandeni, Tehsil and District Nuh.*

*Subject: Regarding grant of promotion to the post of Block
Development and Panchayat Officer to the post of
District Development and Panchayat Officer from
the deemed date 30.5.2008.*

*Ref: Letter No.276-I.E.C.D.-I-2018/12289, dated
8.8.2018 of this office and your letter dated 3.3.2020.*

*It is informed on this subject noted above in relation to the
above referred letter that the matter for grant of deemed
promotion to you on the post of D.D.P.O. from dated 30.5.2008,
has been filed after consideration.”*

7. He argues that the petitioner’s claim has been rejected through a non-speaking and cryptic order, which fails to take into account the applicable statutory provisions as well as the fact that promotion of his juniors was expressly made subject to the outcome of the disciplinary proceedings against him. It is submitted that once the charges levelled against the petitioner were not proved and the proceedings were formally dropped, there remained no justification for the respondents to withhold the legitimate benefits due to the petitioner.

8. An additional argument advanced on behalf of the petitioner is that the Dearness-cum-Retirement Gratuity (DCRG), Commuted Pension, and



Assured Career Progression (ACP) benefits were respectively due to the petitioner on 01.05.2011, 01.05.2011, and 01.01.2006. However, these benefits were not released within a reasonable time and were instead disbursed belatedly on 09.08.2019 and 22.02.2023. Furthermore, it is submitted that the benefit of leave encashment, which became due on 01.05.2010, was only released on 21.03.2023. In addition, the revised pension and gratuity amounts to which the petitioner became entitled on 01.05.2011 were also released belatedly on 17.05.2023. This inordinate delay, despite the petitioner being legally entitled to timely disbursement, reflects administrative apathy and caused unwarranted financial hardship to a retired employee. The details about the same are tabulated as under:-

S. N.	Description	Amount	Due date	Date of payment
1.	Death-cum-Retirement Gratuity	₹ 5,37,653	1.5.2011	9.8.2019
2.	Commuted Value of Pension	₹ 4,84,983	1.5.2011	9.8.2019
3.	Arrears of Salary on account of sanction of First Assured Career Progression Pay Scale of ₹.9300-34800 plus 4800 Grade Pay (sanctioned by Annexure P-24, an order dated 28.12.2022 and consequent pay fixation by Annexure P-26 dated 1.2.2023) to the petitioner from 1.1.2006 to 30.4.2011	₹ 67,864	1.1.2006	22.3.2023
4.	Increased Leave Encashment due to grant of First ACP Pay Scale sanctioned by order dated 28.12.2022 (P-24)	₹ 9,300	1.5.2011	21.3.2023
5.	Arrears of revised/increased monthly Pension due to grant of First ACP Pay Scale sanctioned by order dated 28.12.2022 (P-24)	₹ 1,44,362	1.6.2011	25.5.2023



6.	<i>Increased Death-cum-Retirement Gratuity due to grant of First ACP Pay Scale sanctioned by order dated 28.12.2022 (P-24)</i>	₹ 20,723	1.5.2011	25.5.2023
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9. Referring to the above, it is contended that there has been an inexplicable and unwarranted delay in the release of retiral benefits to the petitioner, despite the fact that the disciplinary proceedings had already been concluded and the charges against the petitioner dropped as far back as in 2016. It is submitted that the petitioner, having been exonerated of all charges and having retired without blemish, is legally entitled to the award of interest on the delayed disbursement of his retiral dues, since the same occurred for no fault or omission on his part. In support of this contention, reliance is placed on the judgment dated 22.05.2019 rendered by this Hon'ble Court in CWP-12146-2016 titled *Tara Chand Tusamer v. State of Haryana and another*, wherein it was held that an employee is entitled to interest on delayed payment of retiral benefits in the absence of any justified reason for such delay. The operative part thereof reads thus:-

“As per the settled principle of law settled by a Full Bench of this Court in A.S. Randhawa's case (supra), the amount which has been retained by the respondents and that too without any justifiable reason, the employee will be entitled to interest. The relevant paragraph of the said judgment is as under: -

“Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms



of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement.”

In the case of J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355, a Co-ordinate Bench of this Court had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of J.S. Cheema's case (supra) is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user



is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

The case of the petitioner is squarely covered by the abovesaid judgments and therefore, he is held entitled for interest @ 9% per annum from the date the amount became due i.e. 01.03.2013 till the same was released by the respondents.

Let the calculation of the amount of interest be done within a period of two months from the date of receipt of a certified copy of this order and the actual amount, so calculated, shall be released to the petitioner within one month thereafter.”

10. Learned State counsel, on the other hand, submits that the petitioner's claim is devoid of merit, while relying upon Government instructions dated 18.11.1971, which categorically stipulate that a Government employee who has been served with a charge-sheet and against whom an Enquiry Officer has been appointed, shall not be considered for promotion until the disciplinary proceedings are concluded and the employee is fully exonerated, either without the imposition of any penalty or with only



a warning being administered. It is contended that the petitioner was not exonerated in the disciplinary proceedings initiated against him under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987. A recovery of Rs.43,330/- was ordered against the petitioner, for which the Deputy Commissioner, Mahendergarh was directed to initiate civil proceedings to recover the amount. However, it is stated that the petitioner voluntarily deposited the said amount prior to the issuance of the charge-sheet, which such action is an implied admission of the charges levelled against him.

11. It is thus submitted that since the petitioner was held responsible for the alleged irregularities and misuse of Government funds amounting to Rs.43,330/-, he was never exonerated from the charges levelled against him, and consequently, was not granted the deemed promotion from the date on which his juniors were promoted. During the course of an earlier hearing and on observing an inherent inconsistency and contradiction in the submissions made by the respondents, particularly in Paragraphs 3 and 4 of the written statement filed by the respondent-State, this Court, vide its order dated 28.08.2024, directed the State to file an additional affidavit to clarify the said aspect. In compliance with the said direction, an affidavit dated 24.09.2024 has been submitted by Shri D. K. Behra, IAS, Secretary to the Government of Haryana, Development & Panchayats Department. The relevant extract of the said affidavit reads thus:-

“3. *That in compliance with the above said order dated 28.08.2024 passed by this Hon'ble Court, the clarification report*



of para 3 and 4 is submitted as under:-

It is submitted that the petitioner ie. Liyakat Ali was responsible for the irregularities and misused the Government fund amounting to Rs. 43,330/- while the petitioner was posted at block Ateli Nangal, Mahendergarh, during year 2002-03. Further, it is submitted that the decision was taken by the competent authority to chargesheet the petitioner, under Rule-7 of HCS (P&A) Rules, 1987 for misappropriation of the government money amounting to Rs 43,330/-, and further the Deputy Commissioner, Mahendergarh was requested for sending the draft chargesheet alongwith supporting documents against the petitioner, but he could not be charge sheeted upto his retirement on 30.04.2011. It is also worthwhile to mention here that the petitioner has already retired from Government Service on 30.04.2011 on attaining the age of superannuation of 58 years. However, in view of the provisions under Rule 2.2(b) of CSR Vol.-II, as the event took place more than four years i.e. during the financial year 2002-03 and no chargesheet under Rule-7 of HCS (P&A) Rules 1987 was issued to the petitioner at that stage. Therefore disciplinary proceedings under Rule-7 against the petitioner has been closed with directions to file a civil suit against the petitioner for recovery of Rs.43,330/-. Hence, the disciplinary action could not be taken aken against the retired



officer under Rule 2.2(b) of CSR Vol.-II. The copy of rule 2.2 (b) of CSR Vol. II is annexed herewith as Annexure- R-1.

Additionally, as per Government policy dated 19.07.1973 the relevant part of which is reproduced as:

"Recovery from pay: This penalty does not extend to any period. Therefore, such kind of penalty is to be kept in view as a part of overall record at the time of promotion.

4. *It is submitted that the competent authority asked the Deputy Commissioner concerned to file a civil suit against the petitioner for recovery of Rs.43,330/-. Meanwhile, the petitioner has deposited the above said recovery i.e. Rs 43,330/- vide letter memo no. 1097 dated 07/08/2017. The copy of memo no. 1097 dated 07/08/2017 is annexed herewith as Annexure-R-2. Needless to say that the petitioner once having deposited the amount shows his admission of said charge leveled against him."*

12. No other argument has been advanced by the learned counsel for the respective parties.

13. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the instant petition with their able assistance.

14. Learned State counsel is not in a position to dispute that no actual charge-sheet under Rule 7 of the Haryana Civil Services (Punishment and



Appeal) Rules, 1987, for misappropriation of Government money amounting to Rs.43,330/-, was ever served upon the petitioner. His explanation is limited to the extent that the Deputy Commissioner, Mahendergarh, was requested to send a draft charge-sheet, but the same could not be drawn up even after the petitioner's retirement on 30.04.2011. It is further submitted that, in terms of the provisions of Rule 2.2(b) of CSR Vol. II, a charge-sheet could not have been served upon the petitioner post his retirement, particularly in relation to an event that occurred more than four years prior to the date of his superannuation. Since the alleged incident of misappropriation of Government funds occurred in the year 2002–2003, a charge-sheet under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, could not have been issued. He, however, contends that the petitioner's act of depositing the amount of Rs. 43,330/- should be treated as an admission of the charges levelled against him.

15. I find that the stand adopted by the respondent is entirely absurd and lacks a valid foundation in law. The initiation of disciplinary proceedings is a prerequisite for with-holding/denial of retiral benefit or promotion. Once the respondent state has itself admitted that a charge-sheet concerning acts/omissions occurring more than four years prior to the date of superannuation could not have been issued, it cannot then deprive the benefit of statutory protection by relying on an assumed interpretation of the statutory rules. Such an action on the part of the respondent is clearly in contravention of the protective statutory provisions and amounts to an attempt to override



the express legislative intent to condone or exempt an employee from disciplinary proceedings in relation to such past events.

16. Undisputedly, the petitioner had never been charge-sheeted in connection with the allegation concerning the misuse of State funds amounting to Rs.43,330/-. The only charge-sheet ever served upon the petitioner pertained to the allegations levelled on 29.05.2008, in respect of which the Enquiry Officer returned a clear finding that the charges could not be proved, and the charge-sheet was accordingly dropped vide order dated 16.09.2015.

17. As per the applicable Rules and considering that the order of promotion of the persons junior to the petitioner was subject to the final outcome of the disciplinary proceedings initiated by the respondent-Department under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, and those proceedings concluded with the charges not being proved and subsequently dropped, the petitioner became entitled to promotion with effect from 30.05.2008—the date on which his juniors were promoted. The impugned order dated 19.06.2023 neither assigns any reasons nor considers the relevant statutory provisions. It is, therefore, cryptic, non-speaking, and liable to be set aside.

18. The present writ petition is accordingly **allowed** and the respondent-Department is directed to promote the petitioner w.e.f. the date when his juniors were promoted i.e. 30.05.2008.

19. Let the needful be done by the respondent-authorities within a



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period of 02 months of the receipt of a certified copy of this order. The admissible retiral benefit of the petitioner shall be re-calculated afresh and the same shall also be released in favour of the petitioner within a further period of 02 months failing which the petitioner shall be entitled to interest @ 6% per annum from the date of institution of this petition till actual disbursement.

20. In so far as the delayed release of the admissible benefits to the petitioner that have been made, despite the disciplinary proceedings having been dropped are concerned, the petitioner is ordered to be entitled to interest @6% per annum on the same from the date when the said benefits became admissible till the actual disbursement thereof.

(VINOD S. BHARDWAJ)
JUDGE

02.04.2025*Mangal Singh*

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