**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

204

CWP-16001-2023
Date of Decision: 21.11.2025

BALBIR SINGH DHALIWAL

...Petitioners

Versus

UNION OF INDIA AND OTHERS

...Respondents

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CWP-32189-2024

UNION OF INDIA AND OTHERS

...Petitioners

Versus

CENTRAL ADMINISTRATIVE TRIBUNAL CHANDIGARH AND ANOTHER

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. S.K. Sharma, Sr. Panel Counsel, UOI
for the petitioners in CWP-32189-2024 &
for the respondents in CWP-16001-2023.

Mr. Karan Singla, Advocate
for the respondent No.2 in CWP-32189-2024 &
for the petitioner in CWP-16001-2023.

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<u>HARSIMRAN SINGH SETHI, J. (ORAL)</u>

1. By this order, we propose to dispose of CWP-32189-2024 and CWP-16001-2023 by a common order as the issue involved in these writ petitions is the same.

2. In these cases, the challenge is to the recovery, which is being done from the petitioner-Balbir Singh Dhaliwal after his retirement.

3. Learned counsel for the petitioner submits that upto the date of retirement and even thereafter, no show cause notice has ever been given with regard to any excess amount claimed by the petitioner-Balbir Singh Dhaliwal but on the basis of an audit report, certain amounts which were entrusted to him, the recovery has been imposed on the ground that same have not been accounted rightly, which amounts to punishments and that too, without holding any enquiry into the allegations. Hence, even otherwise, the said recovery could not have been done as per the settled principle of law, which has been ignored by the Central Administrative Tribunal, Chandigarh Bench (hereinafter referred to as 'Tribunal'), while declining the claim of the petitioner qua the excess amount being recovered. Learned counsel for the petitioner-Balbir Singh Dhaliwal argued that as per the settled principle of law, no recovery can be done from a retired employee and in the present case, the recovery has been done from the retiral dues of the petitioner, which is not admissible and therefore, even otherwise, the said recovery imposed upon the petitioner-Balbir Singh Dhaliwal is liable to be set aside.

4. Learned counsel appearing on behalf of UOI submits that while the petitioner-Balbir Singh Dhaliwal was in service, he was given certain amount as an advance for executing certain work, for which he was liable to account for as to where the same has been used and though, the utilization details were given but the same were under scrutiny even at the time the petitioner-Balbir Singh Dhaliwal was in service. Hence, in the

scrutiny/audit objection, it has come that the petitioner-Balbir Singh Dhaliwal has wrongly adjusted certain amounts, which excess is sought to be recovered, which is perfectly valid and legal.

5. We have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

6. It may be noticed that as per the settled principle of law settled by the Hon'ble Supreme Court of India in ***State of Punjab and others vs Rafiq Masih and others,*** **SCT 2015 (1) 195,** no recovery can be done from a retired employee. The relevant para 12 of the said judgment is as under:-

> "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, summarise 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 the present case, it is a conceded position that upto the date when petitioner-Balbir Singh Dhaliwal retired, there was no audit objection holding him liable for any recovery. The said audit objection only came after the retirement, which cannot be looked into so as to effect recovery.

8. Further, if assumed that the recovery is being done by rejecting the utilization certificate given by the petitioner-Balbir Singh Dhaliwal of the amount advances, the same has to be done in a departmental inquiry so as to recover an amount and that too, after making the allegations, whereon no departmental inquiry has been initiated against the petitioner-Balbir Singh Dhaliwal to not hold him guilty of the allegations so as to recover the said amount, by giving due opportunity to him to rebut that the amount so utilized was valid.

9. Keeping in the totality of the circumstances, the recovery which has been done from the petitioner is not only against the rules as the recovery is being done on the allegation that the petitioner-Balbir Singh Dhaliwal has wrongly adjusted the amount extended to him, which allegation has not been proved in any departmental inquiry and further, the recovery is being done after his retirement, which is contrary to the settled

principle of law settled by the Hon'ble Supreme Court of India in ***Rafiq Masih's*** case (supra).

10. Keeping in the totality of the circumstances, the recovery done from the pensionary benefits of the petitioner-Balbir Singh Dhaliwal is held to be arbitrary and is set aside. Any recovery done from the retiral benefits, will be refunded back to the petitioner within a period of eight weeks from the date of receipt of copy of this order.

11. With regard to the claim in the writ petition (CWP-32189-2024) filed by Union of India, wherein on the delay release of the pensionary benefits, the interest has been granted by the Tribunal, the same suffer from no perversity. It is a conceded position before this Court that at the time when the employee-Balbir Singh Daliwal retired on 28.02.2017, there was no disciplinary proceedings pending against him so as to give jurisdiction to the Union of India to stop his pensionary benefits.

12. It is a conceded position that the pensionary benefits were released after a delay keeping in view the audit objection raised. The audit objection could not be brought into operation to withhold the pensionary benefits especially when there was no disciplinary proceedings pending. No rule has been brought to the notice of this Court that even where an audit objection has been pending, the pensionary benefits can be stopped.

13. As per the judgment of Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others 1997(3) S.C.T. 468,*** in case there was no disciplinary proceedings pending at the time of retirement, the

pensionary benefits are to be released within a period of two months, failing which the employee becomes entitled for the grant of interest. The relevant para of the aforesaid judgment is as under:

> (9) 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 retirer 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. Again, as to what should be the rate of interest, it should, in our view, be generally 12% unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18%.

14. Not only this, the Single Bench of this Court in CWP No.15867 of 2011, titled as *'J. S. Cheema vs. State of Haryana and others'*, decided on 20.11.2013, it has been held that even where, the dues for which an employee is entitled for, remains with the employer and the same has been used to the benefit of the employer, the employee becomes entitled for interest. The relevant para of the said judgment is as under:-

> "In the circumstances, I hold the petitioner entitled to interest @ 8% p.a. on the delayed payment of retiral benefits. The interest will become due w.e.f. 01.05.2000. Let the interest on the above components i.e. gratuity, arrears of pension and leave encashment be computed @ 8% p.a. from 01.05.2000 till the date of payment and the same be released to the petitioner within a period of two months from the date of receipt of a certified copy of this order, failing which, the petitioner would be entitled to claim the same with interest @ 9% p.a."

15. In view of the above settled principle of law, especially where the pensionary benefits have been paid much after a period of two months of the retirement and that too, without there being no disciplinary proceedings pending, grant of interest in favour of the employee upon the said delayed payment, cannot be treated as arbitrary or illegal. Hence, no ground is made out for interference by this Court qua the order granting interest on delayed payment of retiral benefits.

16. Accordingly, both the writ petitions are disposed of in the manner indicated hereinabove.

17. Pending applications, if any, also stand disposed of.

18. Photocopy of this order be placed on the file of connected case.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

November 21, 2025
harish

Whether speaking/reasoned	Yes
Whether reportable	No