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

(125) **CWP No. 18732-2025**
Date of Decision : 09.07.2025

Prahlad Singh
...Petitioner

Versus

State of Haryana and others
...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Anuj Balian, Advocate for the petitioner.

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<u>Harsimran Singh Sethi J. (Oral)</u>

1. In the present writ petition, the challenge is to the order by which, a sum of ₹1,94,193/- has been deducted from the retiral benefits of the petitioner, which the petitioner was liable to pay as a penal rent for not vacating the government accommodation within the time frame of two months and the said government accommodation was retained beyond the entitlement.

2. Learned counsel for the petitioner submits that the petitioner was transferred from Gurugram to Hisar on 07.05.2022 and as per the rules, a transferred employee can retain the accommodation for a period of two months and on expiry of two months, the petitioner submitted a letter of request annexed herein as Annexure P-1 for retaining the said accommodation, which was not accepted and the petitioner vacated the accommodation in October, 2022.

3. Learned counsel for the petitioner further submits that at the time of the retirement of the petitioner, a sum of ₹1,94,193/- has been deducted from his retiral benefits as a penal rent for overstaying in the government accommodation beyond entitlement, which deduction has been made without giving any show cause notice to the petitioner and further without deciding upon the application filed by the petitioner for extension to retain the government accommodation.

4. I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

5. The challenge to the recovery of ₹1,94,193/- is on the ground that no opportunity of hearing was given before deducting the said amount from the retiral benefits. The reliance is being placed upon the judgment of the Hon'ble Supreme Court of India in CA No. 4759-60 of 1996 titled as ***Lakshmi Narayan Mukhopadhyay Vs. Union of India,*** decided on 20.02.2002.

6. In this regard, it may be noticed that it is a conceded position that the petitioner retained the government accommodation beyond his entitlement. As per the House Allotment Rules, in case an employee does not vacate the government accommodation within the stipulated time frame and retain the same, the penalty is to be put upon such employee as per the rules for not vacating the premises. As per the rules, the petitioner retained the government accommodation beyond 05.07.2022 and a penalty of ₹1,94,193/- was imposed upon as per the House Allotment Rules for staying beyond the entitlement in the government accommodation at Gurugram.

7. The said amount has been deducted from the retiral benefits of the petitioner. Once, it is a conceded position that the petitioner had retained the government accommodation beyond his entitlement, the respondents were within the jurisdiction to apply the House Allotment Rules to impose the penalty and recover the same from the petitioner.

8. As per the judgment of the Hon'ble Supreme Court of India, any liability which the government employee suffers during his/her service career, can be recovered from the retiral benefits. The reliance can be placed upon the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.2766-2767 of 2005 titled as Secretary O.N.G.C Limited and another vs. V.U Warrier,*** decided on 20.04.2005, wherein, in paragraphs 25 and 26, it has been held that the employer is entitled to effect recovery from the retiral benefits including the gratuity. The relevant paragraph of the said judgment is as under:

> *"25. It is well settled that gratuity is earned by an employee for long and meritorious service rendered by him. Gratuity is not paid to the employee gratuitously or merely as a matter of boon. It is paid to him for the service rendered by him to the employer [vide Garment Cleaning Works v. Its Workmen, [1962] 1 SCR 711]. In Calcutta Insurance Co. Ltd. v. Their Workmen, [1967] 2 SCR 596, after considering earlier decisions, this Court observed that "long and meritorious service" must mean long and unbroken period of service meritorious to the end. As the period of service must be unbroken, so must the continuity of meritorious service be a condition for entitling the workman to gratuity. If a workman commits such misconduct as causes financial loss to his employer, the employer would under the general law have a*

right of action against the employee for the loss caused and making a provision for withholding payment of gratuity where such loss caused to the employer does not seem to aid to the harmonious employment of labourers or workmen. The Court proceeded to state that the misconduct may be such as to undermine the discipline in the workers - a case in which it would be extremely difficult to assess the financial loss to the employer.

26. In Jarnail Singh v. Secretary, Ministry of Home Affairs and Ors, [1993] 1 SCC 47, this Court had an occasion to consider the provisions of the Central Civil Services (Pension) Rules, 1972. The definition of "pension" included gratuity under Rule 3. Rule 9 conferred on the President right to withhold or withdraw pension in certain circumstances. The order was passed against the appellant withholding pension and the entire amount of death- cum- retirement gratuity otherwise admissible to him. The direction was given on serious irregularities found to have been committed by the appellant. The appellant challenged that order unsuccessfully before the Central Administrative Tribunal. He, therefore, approached this Court. His contention was that an amount of gratuity could not have been withheld. Negativing the contention, the Court held that the power to withhold gratuity was conferred on the President under the relevant rules and hence, such action could not be said to be illegal. According to the Court, there could be adjustment of Government dues against the amount of death-cum- retirement gratuity payable to Government servant."

9. Further, the said question again came up for consideration before the Hon'ble Supreme Court of India in ***SLP No.11025 of 2020 titled as M/s Steel Authority of India Limited vs. Raghbendra Singh and others,***

decided on 15.12.2020 wherein, the Hon'ble Supreme Court of India has again held that any recovery to be done from the employee keeping in view any act during the course of service, can be adjusted against the due payable to the employee concerned including gratuity. The relevant paragraphs of the said judgment are as under:-

> *"We have heard learned senior counsel for the petitioner and it appears that the grievance of the petitioner is qua the broad observations made in paras 19 and 21 in respect of the right to retain quarters since the dues were not paid. The fact remains that the quarter was never vacated and this resulted in proceedings under the Public Premise (Eviction of Unauthorized Occupants) Act, 1971 which culminated against the employee and had attained finality. But the entitlement of the respondent under a Scheme of the petitioner cannot be doubted. We are informed that the scheme no more exists. The amount in question is also quite small and thus, we feel it is not a fit case for interference under Article 136 of the Constitution of India.*
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> *We, however, set aside the observations made in paras 19 and 21 qua the principles of penal rent being charged as we are of the view that if an employee occupies a quarter beyond the specified period, the penal rent would be the natural consequence and such penal rent can be adjusted against the dues payable including gratuity. This is so in view of the judgment in Secretary, ONGC Ltd. v. V.U. Warrier - (2005) 5 SCC 245 and the reliance placed in the impugned judgment on the case of Ram Naresh Singh v. Bokaro Steel Plant [Civil Appeal No.4740/2007] dated 31.03.2017 is misplaced as is not even a judgment but an order in the given facts of the case."*

10. In the present case, the liability to pay the penalty accrued prior to the retirement and hence, has been recovered from the pensionary benefits.

11. The argument which has been raised by the petitioner that no show cause notice was issued to petitioner before recovering the said amount, especially when, the petitioner had filed an application for permission of extension so as to retain the government accommodation. It may be noticed that the petitioner has not produced any order passed by the respondent-authorities allowing thereby the extension to stay in the government accommodation. It should be noted that mere filing of an application does not give the petitioner a right to retain the government accommodation beyond entitlement or to deny the payment of penalty imposed upon him.

12. Further, with regard to the rules of natural justice, it may be noticed that the rules of natural justice are to be followed, where an employee shows that prejudice has been caused against him and he/she had a valid explanation to counter in case, show cause notice was given to him before recovering the amount whereas, in the present case, the petitioner has not shown jurisdiction to continue in the government accommodation beyond his entitlement which exhausted in May, 2022 whereas, he vacated the same in October, 2022.

13. On being asked to show the said reason to this Court, learned counsel for the petitioner has not been able to show any valid justification, whereas it is a conceded position that the petitioner had over stayed in the

government accommodation for which he was charged the penalty, which penalty has been recovered from his pensionary benefits.

14. No ground is made out for any interference by this Court in the present petition.

15. Dismissed.

July 09, 2025 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No