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

**CWP-22313-2025 (O&M)
Date of decision: 23.09.2025**

Navneet Kaur

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amrik Singh, Advocate and
Mr. Harshpreet Singh, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

Mr. Vikram Preet Arora, Advocate
for respondents No.3 & 4.

HARPREET SINGH BRAR, J. (ORAL)

1. 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* seeking quashing of the order dated 04.04.2025 (Annexure P-6), vide which the petitioner has been directed to produce the succession certificate for payment of accrued retiral benefits of her deceased father and further to direct

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the respondents to fix the correct pay and consequent pension of father of the petitioner by granting annual increments as well as ACP accrued to him in the year 2011, which were not granted to him during his lifetime.

2. Brief facts of the case are that father of the petitioner, namely Gian Singh, was serving the respondent-Corporation and he retired on 30.04.2011 from the post of Corporation Engineer. He expired on 25.09.2020. During his lifetime, retiral benefits were not released to him. After his death, the petitioner approached respondent No.3 and supplied copy of death certificate dated 09.10.2020 (Annexure P-1). However, the respondent-Corporation did not release the retiral dues on the ground of pendency of FIR No.5 dated 12.07.2011 registered against him, in spite of presenting of cancellation report twice on 11.09.2014 and 09.03.2018, which was ultimately accepted by learned Special Judge, Patiala vide order dated 13.01.2021 (Annexure P-2). Even the ACP benefits, which became due on 05.04.2011 after promotion as Corporation Engineer on 05.04.2007, were not granted. After death of her father, the petitioner approached the respondents to release the retiral benefits as similarly situated employees, who were also involved in the aforesaid FIR, received their dues after cancellation of FIR (*supra*). However, respondent No.3-Corporation denied the said benefits on the premise of not receiving the NOC from the other Corporation, where father of the petitioner was earlier posted, however, the NOC was issued on

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19.04.2011, as discernible from letter dated 02.09.2011 (Annexure P-3). Furthermore, mother of the petitioner had expired before retirement of her father and the petitioner along with her brother and sister are only legal heirs of their deceased father.

3. Learned counsel for the petitioner, *inter alia*, contends that action of the respondents in withholding the gratuity amount on the ground of registration of FIR (*supra*) is totally illegal and arbitrary, which cannot be withheld merely due to registration of FIR against an employee. Admittedly, at the time of retirement, neither any final report under Section 193 of the Bharatiya Nagarik Suraksha Sanhita, 2023 was presented, as such, there is no question of framing of charges. Thus, the petitioner is entitled to the retiral benefits of her father. It is further submitted that case of the petitioner is squarely covered by the judgment rendered by the Hon'ble Supreme Court in ***Union of India and others Vs. KV Jankiraman, (119) 4 SCC 109***. Further, the condition of production of succession certificate is imposed with an oblique motive to delay the release of retiral dues, which is not backed by any statutory mandate. In the absence of any rule mandating the succession certificate, the respondents cannot invoke and put such condition.

4. Learned counsel for the petitioner further contends that identically circumstanced employees, who were also involved in the FIR (*supra*), have already been granted the retiral benefits along with interest

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@6% per annum in terms of the judgment dated 09.02.2024 passed by the Coordinate Bench of this Court in CWP-28933-2022 (Annexure P-9).

5. Learned counsel for respondents No.3 & 4 as well as learned State counsel appearing on behalf of respondents No.1 & 2 could not controvert the fact that after completion of investigation in FIR (*supra*), the allegations contained in the FIR (*supra*) were found to be false and as such, cancellation report was presented before the Court of learned Special Judge, Patiala and vide order dated 13.01.2021 (Annexure P-2), same was accepted.

6. Learned counsel for the respondents are not in a position to controvert the fact that at the time of retirement of father of the petitioner, neither there was any pending chargesheet in any disciplinary proceedings nor charges were framed against him in the FIR (*supra*) by the competent Court of jurisdiction.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

8. The observations made by a three-Judge Bench of the Hon'ble Supreme Court in ***KV Jankiraman***'s case (*supra*), speaking through Justice P.B. Sawant, read as under: -

“16. On the first question, viz., as to when for the purposes of the sealed cover procedure the disciplinary/criminal proceedings can be said to have commenced, the Full Bench of the Tribunal has held that it is only when a charge-memo in a disciplinary

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proceedings or a charge-sheet in a criminal prosecution is issued to the employee that it can be said that the departmental proceedings/criminal prosecution is initiated against the employee. The sealed cover procedure is to be resorted to only after the charge-memo/charge-sheet is issued. The pendency of preliminary investigation prior to that stage will not be sufficient to enable the authorities to adopt the sealed cover procedure. We are in agreement with the Tribunal on this point. The contention advanced by the learned counsel for the appellant-authorities that when there are serious allegations and it takes time to collect necessary evidence to prepare and issue charge-memo/charge-sheet, it would not be in the interest of the purity of administration to reward the employee with a promotion, increment etc. does not impress us. The acceptance of this contention would result in injustice to the employees in many-cases. As has been the experience so far, the preliminary investigations take an inordinately long time and particularly when they are initiated at the instance of the interested persons, they are kept pending deliberately. Many times they never result in the issue of any charge memo/charge-sheet. If the allegations are serious and the authorities are keen in investigating them, ordinarily it would not take much time to collect the relevant evidence and finalise the charges. What is further, if the charges are that serious, the authorities have the power to suspend the employee under the relevant rules, and the suspension by itself permits a resort to the sealed cover procedure. The authorities thus are not without a remedy. It was then contended on behalf of the authorities that conclusions nos. 1 and 4 of the Full Bench of

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the Tribunal are inconsistent with each other. Those conclusions are as follows:

"(1) consideration for promotion, selection grade, crossing the efficiency bar or higher scale of pay cannot be withheld merely on the ground of pendency of a disciplinary or criminal proceedings against an official;

(2)

(3)

(4) the sealed cover procedure can be resorted only after a charge memo is served on the concerned official or the charge sheet filed before the criminal court and not before."

9. Further, case of the petitioner is squarely covered by a judgment passed by the Division Bench of this Court in **CWP-3567-2006 (Atam Bodh Sharma Vs. State of Haryana and others)**, decided on 09.10.2006, wherein it has been held that the retiral dues of an employee cannot be withhold merely on the premise of pendency of an FIR, if presentation of challan before the jurisdictional Court is pending on the date of his retirement. Speaking through Justice M.M. Kumar, following was observed: -

"4. A perusal of the Explanation 2(i) makes it evident that judicial proceedings would be deemed to have been instituted on the date on which challan is submitted to a criminal Court. In the present case it is conceded position that challan has not been presented so far against the petitioner although he had retired on 31.3.2005 and the FIR was registered against him on 21.8.2003. The principle laid down in the aforementioned explanation has

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been fully supported by the judgment of Hon'ble the Supreme Court in the case of Union of India v. K.V. Jankiraman, 1991(3) SCT 317 (SC) : (1991) 4 SCC 101. The question before the Court was that whether for the purposes of sealed cover procedure mere contemplation of disciplinary inquiry of criminal proceedings could be deemed to be pending and it was held as under:

"On the first question, viz., as to when for the purposes of the sealed cover procedure the disciplinary/criminal proceedings can be said to have commenced, the Full Bench of the Tribunal has held that it is only when a charge-memo in a disciplinary proceedings or a charge-sheet in a criminal prosecution is issued to the employee that it can be said that the departmental proceedings/criminal prosecution is initiated against the employee. The sealed cover procedure is to be restored to only after the charge-memo/charge-sheet is issued. The pendency of preliminary investigation prior to that stage will not be sufficient to enable the authorities to adopt the sealed cover procedure. We are in agreement with the Tribunal on this point....."

(Emphasis added)

5. There is another reason for us to accept the prayer made by the petitioner. A Division Bench of this Court has taken the view that respondent cannot invoke Rule 2.2(b) on the excuse that criminal case has been pending till the trial Court has declared the pensioner as guilty. It is only after the decision of the trial Court that a competent authority has to apply its mind and then

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to conclude whether any punishment under Rule 2.2(b) is to be imposed. After quoting Rule 2.2(b) and the proviso 1, a Division Bench of this Court in the case of Manohar Singh v. Punjab State Electricity Board, 2006(2) SCT 103 (P&H): 2006 (2) RSJ 316, has observed as under:

"12. A bare perusal of the aforesaid rule shows that it can be invoked if in a departmental or judicial proceeding, the pensioner is found guilty of grave misconduct or negligence during the period of his services. In the present case, the enquiry proceedings had already concluded against the petitioner and he had been punished by orders dated 16.11.2000 (Annexure P-6) and 26.8.2002 (Annexure P-9). Therefore, the petitioner is correct in his submission that no departmental proceedings were pending against him at the time of his superannuation on 31.5.2003. In our opinion, the respondents cannot invoke Rule 2.2(b) on the ground that the case in FIR No.112 of 1999 is still pending against the petitioner. The sine quo non for invoking Rule 2.2(b) is that the pensioner has been found guilty in a departmental or judicial proceeding which had continued after the superannuation of the employee. This view of ours finds support from the judgment of the Supreme Court in the case of High Court of Punjab and Haryana v. Amrik Singh, 1995 (2) SCT 613 (SC) : 1995(1) SLR 236. In Para 4 of the aforesaid judgment, it is observed as follows:

"4. Rule 2(2) of the Pension Rules, Clause (b) clearly mentions thus:

"2(2)(b) the Government further reserves to themselves

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the right to withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and right of ordering the recovery from the pension of the whole or part of any pecuniary loss caused to Government. If, in a departmental or judicial proceeding, the petitioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon reemployment after retirement.

A reading thereof clearly indicates that the disciplinary authority, consequent upon the result of the departmental or judicial proceedings, should record a finding whether the delinquent has committed grave misconduct or negligence during the period of his service including the service rendered upon reemployment after retirement.

6. In the present case also there is no conclusion of the trial. Even the challan has not been presented. Therefore, the respondents merely on the basis of registration of the FIR on 21.08.2003, are not within their rights to withhold the pension or pensionary benefits of the petitioner. Therefore, the impugned order dated 15/22.2.2006 (P-7) is liable to be set aside.”

10. In view of the above discussion, present petition is allowed and the respondents are directed to release the gratuity and other retiral benefits of the deceased father of the petitioner, in favour of the petitioner, along with interest @6% per annum from the date it became due till its actual realization.

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Such exercise be carried out within a period of three months from the date of receipt of certified copy of this order.

11. All the pending miscellaneous application(s), if any, shall stand disposed of.

23.09.2025

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[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No