

2025:PHHC:148578



129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-27314-2025
DECIDED ON: 08.10.2025

HAR LAL BISHNOI

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sandeep Punchhi, Advocate
for the petitioner

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

The jurisdiction of this Court has been invoked under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of Certiorari quashing the impugned order dated 25/03/25 Annexure P/14 vide which the petitioner has been burdened with 30 percent of 1/4th of the total loss i.e. Rs 5,53,050/-

2. **Facts:-**

In May 2006, the State Sanitary Board, Haryana approved a scheme for the construction of independent water works at Village Nathusari Chopta, District Sirsa, amounting to ₹85.30 lakh. The project was to source raw water from the Kutiyana distributary via a 7,200-foot-long RCC pipeline, which was to be laid along existing paths, eliminating the need for land acquisition. In February 2007, the project was allotted to a contractor at an agreement value of ₹69.75 lakh with a 9-month completion deadline. The contractor partially executed the work,

but left it incomplete in February 2009, citing non-cooperation from farmers who refused to allow the pipeline on their land. The Petitioner, Har Lal Bishnoi, was posted in Sirsa only from 22.06.2007 to 30.06.2009 (Sub Div. No.4) and from 01.07.2009 to 30.11.2009 (Sub Div. No.7). The planning, estimation, sanction, and allotment of the work occurred prior to his tenure. His role was limited to passing running bills. As the scheme remained incomplete, a revised estimate of ₹1.30 crore was sanctioned in June 2011, changing the water source from Kutiyana to Baruwali Distributary and including provision for land acquisition. After audit objections, the department acknowledged lack of feasibility studies and land availability before executing the project. A total expenditure of ₹74.32 lakh had been incurred, with the work abandoned since 2009. On the basis of audit observations and the CAG report, the Petitioner along with two other officers was charge-sheeted under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987. The Enquiry Officer, in his report dated 22.07.2012, held the Petitioner not responsible for the Nathusari Chopta water works project, except for the observation that final bills were passed without ensuring functional completion. The Government, despite the Enquiry Officer's exoneration, passed an order dated 15.05.2017, holding the Petitioner liable for 30% of the loss and ordered recovery from his pension. The Petitioner challenged the said order by filing a civil suit, which was decreed in his favour by the Ld. Civil Judge (Sr. Division), Sirsa on 18.12.2020, and the decision was upheld in appeal by the Ld. District Judge, Sirsa on 13.12.2021. In Regular Second Appeal No. 1693 of 2022, this remanded the matter to the disciplinary authority vide order dated 30.01.2023, directing reconsideration on the question of negligence and pecuniary loss. On remand, despite multiple departmental reports including those of the

Superintending Engineer and Executive Engineer, Sirsa confirming the following points that:

- The scheme had been made functional as of 01.09.2018;
- No additional expenditure beyond revised estimates was incurred;
- No financial loss had occurred to the State exchequer;
- The infrastructure created was fully utilized and operational;

The respondents again passed an order dated 25.03.2025 (Annexure P-14), imposing recovery of ₹5,53,050/- on the petitioner, being 30% of 1/4th of the supposed loss.

3. **Contentions**

On behalf of the petitioner:-

Learned counsel for the petitioner contended that the impugned order dated 25.03.2025, whereby a recovery of ₹5,53,050/- has been imposed upon the petitioner being 30% of 1/4th of the alleged loss is arbitrary, illegal, and unsustainable in law. It was submitted that the petitioner, Har Lal Bishnoi, was posted in Sirsa only from 22.06.2007 to 30.11.2009 and had no role in the planning, estimation, sanction, or allotment of the water works project at Nathusari Chopta, which was approved in May 2006 and allotted to a contractor in February 2007. The petitioner's involvement was limited merely to the preparation of running bills during his tenure.

It was further argued that the Enquiry Officer, in his report dated 22.07.2012, had specifically exonerated the petitioner of any liability concerning the Nathusari Chopta scheme, except for a technical observation regarding passing of final bills prior to functional commissioning of the work which was ultimately completed in September 2018. Despite such findings, the disciplinary authority

proceeded to impose a recovery without due application of mind and in contradiction to the enquiry report.

Learned counsel also emphasized that both the civil court and the first appellate court had concurrently held in favour of the petitioner, setting aside the earlier punishment order dated 15.05.2017. Although the matter was remanded by this Court in RSA No. 1693 of 2022 for reconsideration specifically on the aspect of negligence and pecuniary loss, the impugned order fails to comply with the directions issued, as it does not establish any actual loss to the State exchequer or any culpability on the part of the petitioner. Rather, various departmental reports, including those from the Superintending Engineer and Executive Engineer, confirmed that the scheme was made fully functional as of 01.09.2018, no expenditure was incurred beyond the revised estimate, and the infrastructure created is being utilized effectively.

It was further argued that the entire basis for recovery originally framed around the allegation of "unfruitful expenditure" has now been shifted to the depreciation of infrastructure, without any legal or factual justification. The action of the respondents is thus a classic case of change of stand to sustain an otherwise untenable order. Lastly, it was submitted that there is no provision permitting recovery from pension in the absence of any established pecuniary loss or grave misconduct as required under Rule 2.2(b) of the Punjab Civil Services Rules, Volume II, especially when the officer stood retired and was not responsible for the alleged administrative lapses. Therefore, the learned counsel prayed for setting aside of the impugned order and restoration of full retiral benefits to the petitioner.

4. **Analysis**

Having considered the pleadings, submissions of learned counsel for the petitioner, and the record produced, this Court is of the view that the present petition is not maintainable. It is not in dispute that the petitioner, a retired government servant, had earlier assailed the disciplinary action taken against him, which culminated in the order dated 15.05.2017, by way of a civil suit. The said suit was decreed in his favour by the Ld. Civil Judge (Sr. Division), Sirsa on 18.12.2020, and the judgment was upheld in appeal by the Ld. District Judge, Sirsa on 13.12.2021. However, in Regular Second Appeal No. 1693 of 2022, this Court remanded the matter to the disciplinary authority vide order dated 30.01.2023 with specific directions to reconsider the issue of negligence and pecuniary loss in light of the available material.

Pursuant to the remand, the disciplinary authority has passed a fresh order dated 25.03.2025, which is under challenge in the present petition. However, it is trite that where a statutory remedy of appeal or revision is available under the service rules or under general law, the writ jurisdiction of this Court under Article 226 of the Constitution is not to be ordinarily invoked. In the present case, the petitioner has chosen to bypass the alternate remedy available under Rule 9 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 by directly approaching this Court under its writ jurisdiction. The petitioner has not demonstrated any exceptional circumstance, such as a violation of principles of natural justice or lack of jurisdiction, which may justify such deviation. The provision has been reproduced as under:-

“9. Right of appeal.— Every person to whom these rules apply, shall be entitled to appeal, as hereinafter provided, to such superior authority as may be prescribed by Government in the rules regulating his conditions of services against an order.”

Moreover, this Court notes that the issue raised in the present petition essentially relates to the quantum of recovery and the findings of the disciplinary authority on facts. These are matters falling squarely within the domain of the competent appellate authority or the civil court and require a fact-based adjudication that cannot be conveniently undertaken in writ jurisdiction. The petitioner, having already been afforded an opportunity through the remand order passed in second appeal, cannot be permitted to re-agitate the matter collaterally without first exhausting the statutory remedy provided under the service rules or the civil court. In essence, Article 226 does not empower the High Court to re-examine facts or interfere with the quantum of recovery determined by a competent authority, except where there is manifest illegality, procedural impropriety, or violation of fundamental rights. Allowing a petitioner to circumvent the prescribed remedies would undermine the statutory scheme of redressal and would amount to the High Court functioning as a regular court of appeal, which is not permissible under established law.

5. **Conclusion:-**

Therefore, in view of the availability of an efficacious alternate remedy, the present petition is held to be not maintainable, and is accordingly dismissed on this ground alone, without going into the merits of the impugned order dated 25.03.2025. However, the petitioner shall be at liberty to avail appropriate remedy in accordance with law.

Ordered accordingly.

08.10.2025

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(SANDEEP MOUDGIL)
JUDGE

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