

**CWP-33863-2024****-1-**

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

CWP-33863-2024**Date of Decision: 08.07.2025****Umrao Singh****....Petitioner**

VS.

Dakshin Haryana Bijli Vitran Nigam Limited and others**....Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Devender Arya, Advocate and
Mr. Gourav Jangra, Advocate
for the petitioner

Mr. Raman Sharma, Addl. A.G., Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside or order dated 20.11.2023 (Annexure P-12) whereby respondent has ordered to recover a sum of Rs. 5,34,708/- from him.

2. The petitioner retired from the office of respondent on 30.04.2010. He was served memo on 05.04.2010 and Enquiry Officer was appointed. Enquiry Officer submitted his report. On the basis of report of Enquiry Officer, show cause notice dated 30.05.2012 was issued whereby he was ordered to show cause as to why Rs. 3,68,175/- should not be recovered from him. He submitted an undertaking dated 31.10.2013 wherein he



requested that he may be given all the retiral benefits after recovery of amount shown in the enquiry report. He also filed reply to show cause notice. On the basis of undertaking and reply of the petitioner, the respondent vide order dated 18.09.2015 decided to drop the show cause notice. He preferred CWP No. 4727 of 2016 before this Court alleging that recovery has been made from him without passing final order on the enquiry proceedings. The said petition came to be disposed of vide order dated 27.09.2022. The petition was disposed of on the basis of statement of counsel for the respondent that they will pass an appropriate order on the enquiry proceedings and thereafter release the amount in case found permissible. The respondent instead of passing order, if any, on the basis of previous enquiry, appointed fresh Enquiry Officer who conducted enquiry wherein he declared that a sum of Rs. 3,68,175/- is recoverable from the petitioner. The petitioner filed reply to show cause notice and respondent passed order dated 20.11.2023 whereby a sum of Rs. 5,34,708/- was declared recoverable from him.

3. Mr. Davender Arya, Advocate submits that proceedings initiated in 2010 stand dropped, thus, there was no occasion to make further enquiry and pass order of recovery. In the first report, there was allegation of loss of Rs.3,68,175/- whereas in the second show cause notice loss has been calculated to the tune of Rs. 5,34,708/-.

4. Mr. Raman Sharma, Addl. A.G., Haryana submits that on account of undertaking of the petitioner, proceedings were dropped against him as recovery stood effected. The respondent took somersault and filed petition before this Court alleging that no final order has been passed. There



was statement before this Court to pass final order, however, respondent by mistake initiated fresh enquiry and passed a fresh order.

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

6. From the perusal of record, it is evident that Enquiry Officer, at the first instance, submitted his report on 08.05.2012. The petitioner was issued show cause notice on 13.05.2012. He filed reply to show cause notice and further filed undertaking to the effect that loss as assessed by Enquiry Officer may be recovered from his retiral dues and balance amount may be released. The respondent instead of declaring that demand stands effected, thus, show cause notice stands vindicated, passed order dated 18.09.2015 wherein it was held that show cause notice is hereby dropped. The petitioner taking advantage of said mistake, preferred CWP No. 4727 of 2016 before this Court which was disposed of on the basis of statement of respondent that final order would be passed on the basis of report of Enquiry Officer.

7. The respondent in view of statement made before this Court on 27.09.2022 was supposed to pass order confirming or dropping the demand whereas initiated fresh departmental proceedings which were unknown to law. The respondent could not re-initiate departmental proceedings and pass fresh order. Accordingly, it is hereby held that fresh orders passed by respondent are bad in the eye of law and need to be ignored.

8. The Enquiry Officer in his report dated 08.05.2012 found the petitioner guilty and a sum of Rs. 3,68,715/- was found to be recoverable. He was issued show cause notice dated 30.05.2012 calling upon to show

cause as to why said amount should not be recovered. The petitioner by way of his undertaking asked the respondent to recover the amount assessed by the Enquiry Officer and release the remaining amount. The said amount was sought to be recovered from his retiral dues. The respondent recovered the said amount from his retiral dues and passed order dated 18.09.2015. The respondent as per its understanding that amount stands recovered, thus, show cause notice needs to be dropped, passed order dropping show cause notice. This was a technical mistake on the part of respondent. The respondent was supposed to hold that recovery stands effected, thus, proceedings stand concluded. There was no need to use expression that ‘Show Cause Notice is hereby dropped’. The petitioner cannot take advantage of said mistake. The recovery stands effected. The petitioner is not entitled to said amount and at the same moment, the respondent shall not recover any further amount from the petitioner on the basis of any order subsequent to order dated 18.09.2015.

9. The instant petition stands disposed of in above terms.
10. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)

JUDGE

08.07.2025

paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	