



224

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

**CWP-3859-2021 (O&M)
Decided on: 27.01.2026**

Hari Om

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mohan Singla, Advocate
for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Hitesh Pandit, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

1. Instant writ petition has been filed under Article 226/227 of the Constitution of India for issuance of writ in the nature of *certiorari* seeking quashing of the chargesheet dated 20.08.2010 (Annexure P-1), Note of Dissent dated Nil (Annexure P-4), notice dated 26.06.2012 issued under Rule 19.2(g) of Hated Common Cadre Rules, 1988 (for short 'Rules of 1988') (Annexure P-3), report of Standing Committee dated 19.12.2013 (Annexure P-6), order dated 20.02.2014 (Annexure P-7), imposing recovery of Rs.1,90,914/- and the

2026:PHHC:011461



order dated 23.12.2020 (Annexure P-10) passed by the respondent-Federation in the appeal filed by the petitioner, whereby the order dated 20.02.2014 (Annexure P-7) was upheld and further to issue a writ in the nature of *mandamus* directing the respondents to release/refund the amount of Rs.1,90,914/- and other dues along with interest @18% *per annum*, from the date of his retirement till its actual realization.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was appointed as Cotton Purchase Assistant in the respondent-Federation in November, 1980 and he superannuated on 31.12.2011 after rendering 31 years of satisfactory service. The respondents issued a chargesheet on 20.08.2010 under Rule 19 of the Rules of 1988. The petitioner filed a detailed reply and explained the charges as false. The Inquiry Officer held the petitioner liable for recovery of Rs.66,419/- for charge No.1 (rice loss) and Rs.24,980/- for charge No.2 (wheat loss) totalling Rs.91,399/-. Respondent No.2-Managing Director, HAFED did not agree with the recommendations of the Inquiry Officer and recorded his dissent and the recovery of Rs.1,90,914/- was ordered. The order of punishment was passed on 20.02.2014 (Annexure P-7) after retirement of the petitioner.

3. Learned counsel for the petitioner further submits that the issue as to whether the departmental proceedings, even if, initiated against an employee during service and continued after retirement as gone into the judgment of the Hon'ble Supreme Court in ***Chandra Singh Vs. State of***



Rajasthan and another, 2003 (6) SCC 545, wherein it has been authoritatively held that in the absence of any specific Rule to the effect that once an employee is permitted to retire, the proceedings cannot continue. Learned counsel further relied upon the judgment rendered by the Coordinate Bench of this Court in ***S.C. Jain Vs. Managing Director, Haryana State Federation of Consumers Cooperative Wholesale Stores Ltd. and another (CWP No.15247 of 2011)***, decided on 22.05.2013.

4. *Per contra*, learned counsel for the respondent-Federation opposes the prayer made by the petitioner on the ground that the petitioner, for the first time, has taken this ground in the present writ petition, whereas he had filed a civil suit claiming his retiral dues in the year 2012. Further, the petitioner preferred a statutory appeal against the order of punishment, which has been upheld and the appeal filed by him has been dismissed. As such, by taking a hyper-technical view, the petitioner cannot be allowed to go scot-free for the loss suffered by the respondent-Federation. Once an inquiry was initiated prior to the retirement of an employee, it is required to be taken to its logical end.

5. Heard learned counsel for the parties and after perusal of the record of the case with their able assistance, it transpires that the petitioner retired on 31.12.2011, whereas the punishment order (Annexure P-7) was passed on 20.02.2014, after his retirement. Relevant provisions of the Rules of 1988 are reproduced as under: -

2026:PHHC:011461

**“4. Definition:**

xxx

xxx

xxx

Employee means a person appointed on regular basis in accordance with the provisions of these rules but does not include persons appointed on daily wages/ad hoc basis/consolidated pay.

19. Penalties

1. Notwithstanding anything contained in any other regulation and without prejudice to such action to which an employee becomes liable under any other law or regulation for the time being in force, the following penalties may be imposed for good and sufficient reasons on any member of the service:

Minor Penalties:-

- (a) Censure
- (b) Warning with a copy on ACR
- (c) Withholding of increments without cumulative effect.
- (d) Recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to Federation/Society /Societies by negligence or breach of orders.

Major Penalties:-

- (f) Reduction to a lower category.
- (g) Removal from service.
- (h) Dismissal from service.
- (i) Withholding of increments of pay with cumulative effect.”

6. A perusal of the aforesaid provisions clearly reveals that the penalties as provided under Rule 19 of the Rules of 1988 can be enforced only on an employee, who is drawing salary as defined in Rule 4(F), which means a person appointed on regular basis in accordance with the provisions of law, but does not include a person appointed on daily wages, *ad hoc* basis or consolidated pay. As such, the penalties under Rule 19 of the Rules of 1988



can be inflicted on an employee in service. None of the punishment, as extracted above, remotely suggest that it can be imposed after an employee retired from his service. The issue whether departmental proceedings initiated against an employee during service can continue after his retirement is no longer *res integra* in view of the judgment rendered by this Court in **CWP-12845-2023** titled as ***Mohinder Singh Vs. State of Haryana and others.***

7. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***Bhagirathi Jena Vs. Board of Directors, OSFC, (1999) 3 SCC 666***, speaking through Justice S.S. Mohammed Quadri, opined as under: -

“5. In view of the absence of such provisions in the above said regulations, it must be held that the Corporation had no legal authority to make any reduction in the retiral benefits of the appellant. There is also no provision for conducting a disciplinary enquiry after retirement of the appellant and nor any provision stating that in case misconduct is established, a deduction could be made from retiral benefits. Once the appellant had retired from service on 30.6.95, there was no authority vested in the Corporation for continuing the departmental enquiry even for the purpose of imposing any reduction in the retiral benefits payable to the appellant. In the absence of such authority, it must be held that the enquiry had lapsed and the appellant was entitled to full retiral benefits on retirement.”

(emphasis supplied)

8. In view of the discussion above, present writ petition is allowed and the impugned chargesheet dated 20.08.2010 (Annexure P-1), Note of Dissent dated Nil (Annexure P-4), notice dated 26.06.2012 issued under Rule

2026:PHHC:011461



19.2(g) of the Rules of 1988 (Annexure P-3), report of Standing Committee dated 19.12.2013 (Annexure P-6), order dated 20.02.2014 (Annexure P-7), imposing recovery of Rs.1,90,914/- and the order dated 23.12.2020 (Annexure P-10) passed by the appellate authority, are hereby set aside. The respondents are directed to release/refund the amount of Rs.1,90,914/- and other dues, as admissible, along with an interest @6% from the date of his retirement i.e. 31.12.2011 till its actual realization, within a period of three months from the date of receipt of certified copy of this order.

9. The pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

27.01.2026
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No