



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

108

CWP-9652-2026 (O&M)
Date of decision: 05.05.2026

Jatinder Kumar

....Petitioner

Versus

Punjab State Power Corporation Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Garima Arora, Advocate
for the petitioner.

Ms. Kavita Joshi, Advocate
for the respondents.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the illegal and unilateral recovery of Rs.11,20,164/- effected from the petitioner's gratuity as per the Gratuity Payment Order dated 26.03.2025 (Annexure P-8), and the recovery of Rs.5,25,000/- made during his service vide Memo No.682/5.2 dated 18.10.2021 (Annexure P-9). Further a writ of *mandamus* has been sought, directing the respondents to release interest @ 16% per annum on account of the delayed payment of retiral benefits, including pension, leave encashment, GPF and commutation of pension, which were released after significant delays without any justifiable cause.



2. Learned counsel for the petitioner has, *inter alia*, contended that the petitioner joined the services of the respondent/Corporation in the year 1985 and voluntarily retired on 15.12.2021 while holding the post of Assistant Executive Engineer. She has further submitted that on the date of retirement of the petitioner, no departmental or disciplinary proceedings were pending against him. Despite this, the respondent/Corporation withheld the retiral dues of the petitioner and released the same in a highly delayed manner. The General Provident Fund of the petitioner was credited on 10.05.2022 (Annexure P-1), leave encashment on 27.04.2022 (Annexure P-2) and only 80% provisional pension was sanctioned vide provisional Pension Payment Order (PPO) dated 25.08.2022 (Annexure P-3). Thereafter, the full Pension Payment Order (PPO) was issued much later on 26.03.2025 (Annexure P-4), followed by release of arrears of pension on 02.05.2025 (Annexure P-5) and commutation of pension on 16.05.2025 (Annexure P-6). She has further submitted that even the gratuity of the petitioner was released belatedly on 15.05.2025 (Annexure P-7), and that too after effecting substantial deductions.

2.1. Learned counsel for the petitioner has further submitted that as per the gratuity payment order dated 26.03.2025 (Annexure P-8), the petitioner was entitled to DCRG amounting to Rs.20,00,000/-, however, a sum of Rs.11,20,164/- was deducted towards alleged “recovery” and only Rs.8,79,836/- was disbursed. The said deduction has been effected without issuance of any show cause notice, without



disclosing the basis or head-wise calculation of the alleged recovery and without affording any opportunity of hearing to the petitioner. The action of the respondent/Corporation is arbitrary and in clear violation of the principles of natural justice.

2.2. Learned counsel for the petitioner has further contended that an amount of Rs.5,25,000/- had already been recovered earlier from arrears paid to the petitioner in September, 2019, as is borne out from Memo No. 682/5.2 dated 18.10.2021 (Annexure P-9). The subsequent deduction from gratuity, therefore, amounts to double recovery, which is impermissible in law and thus, a grave prejudice has been caused to the petitioner.

2.3. Learned counsel for the petitioner has further pointed out that the petitioner had earlier approached this Court by filing CWP No.15347 of 2025, which was dismissed as withdrawn on 22.07.2025 (Annexure P-11) with liberty to submit a detailed representation. Pursuant thereto, the petitioner submitted a representation dated 19.08.2025 through e-mail (Annexure P-12), followed by a reminder dated 17.01.2026 (Annexure P-13), which remain undecided till date.

2.4. Learned counsel for the petitioner, on the strength of the aforesaid facts, has argued that in the absence of any disciplinary proceedings culminating in a lawful determination of liability, the respondents could not have effected recoveries from the retiral dues of the petitioner, particularly from gratuity, merely on the basis of audit objections or internal verification. It is, thus, contended that the



petitioner is entitled to refund of the deducted amount along with interest for the inordinate and unjustified delay in release of his pensionary benefits.

3. Learned counsel for the respondents/Corporation, on the strength of the short affidavit of Er. Gurmukh Singh, Additional S.E., Division Jandiala Guru, filed in the Court today, has argued that the case of the petitioner for release of retiral dues could not be finalized promptly due to pendency of verification/reconciliation of accounts and outstanding liabilities and the petitioner himself has failed to submit the complete records despite repeated opportunities. She has asserted that during the petitioner's tenure, while working as Junior Engineer, serious financial irregularities/material shortages were detected, including shortage of material to the tune of Rs.5,24,061/- and unauthorized engagement of labour, which resulted in financial loss. A show cause notice dated 26.03.2010 was issued to the petitioner, however, he allegedly did not submit any reply, which lead to passing of an order dated 26.03.2012 (Annexure R-1) imposing recovery of Rs.5,39,633/- and stoppage of one annual increment.

3.1. Learned counsel for the respondents/Corporation has further stated that the petitioner throughout his service did not hand over the complete records and did not submit the accounts for verification despite departmental communications, including communications dated 08.05.2002, 09.05.2022 and 23.06.2023 (Annexures R-2 to R-4, respectively), and upon subsequent audit and verification of M.A.S.



accounts, an additional shortage of Rs.5,95,164/- was detected and the same was duly communicated to the petitioner vide memo/letter dated 21.03.2023 (Annexure R-5). It is further submitted that, in view of the aforesaid facts, recoveries/adjustments have been made from the retiral dues of the petitioner including gratuity.

3.2. Learned counsel for the respondent/Corporation has fairly conceded that, as noticed in para 12 of the affidavit, an amount of Rs.5,25,000/- was earlier recovered from arrears of pay in September, 2019 and, due to administrative overlap, duplication to that extent was noticed and the process for adjustment/refund of the excess amount has been initiated vide letter dated 15.04.2026 (Annexure R-6) and the same has been duly reflected in pension slip of the petitioner dated 21.04.2026 (Annexure R-7).

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

5. It is no longer *res integra* that recovery from the retiral dues of an employee on the basis of an audit objection, in the absence of any disciplinary proceedings, is impermissible in law.

6. A Three Judge Bench of the Hon'ble Supreme Court in ***Syed Abdul Qadir v. State of Bihar 2008 INSC 1436***, has held that recovery of excess payments made to employees is not permissible when such recovery is sought merely on the basis of an audit objection. In that case, the Audit Team of the Office of the Accountant General, Bihar, had objected to the pay fixation made under FR.22-C, leading the



Finance Department to issue an order for re-fixation and recovery of the excess amount. The Court, while acknowledging that the pay fixation was erroneous, refused to sanction recovery. It laid down that recovery cannot be sustained where: (i) the excess payment was not caused by any misrepresentation or fraud on the part of the employee; (ii) the employee had no knowledge that the payment was in excess of what was due; and (iii) the over-payment resulted entirely from the employer's own inaction, negligence, or wrong interpretation of the applicable rules. The Court emphasized that relief against recovery is granted not as a right, but in equity, to avoid hardship to innocent employees. Consequently, an audit objection, *per se*, cannot be a valid ground to initiate or sustain recovery proceedings, especially when the fault lies solely with the employer.

7. Relying on the judgment rendered by the Hon'ble Apex Court in *Syed Abdul Qadir (supra)*, a Two Judge Bench of the Hon'ble Supreme Court in *ITC Ltd. vs. State of Uttar Pradesh 2011 INSC 458*, while speaking through Justice R.V. Raveendran observed as under:

“64. We may give an example from service jurisprudence, where a principle of equity is frequently invoked to give relief to an employee in somewhat similar circumstances. Where the pay or other emoluments due to an employee is determined and paid by the employer, and subsequently the employer finds, (usually on audit verification) that on account of wrong understanding of the applicable rules by the officers implementing the rules, excess payment is made, courts have recognised the need to give limited relief in regard to recovery of past excess payments, to reduce hardship to the innocent employees, who benefited from such wrong interpretation. A three Judge bench of



*this Court in **Syed Abdul Qadir v. State of Bihar [2009 (3) SCC 475]** stated the principle thus :*

"This Court, in a catena of decisions, has granted relief against recovery of excess payment of emoluments/allowances if (a) the excess amount was not paid on account of any misrepresentation or fraud on the part of the employee and (b) if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous.

The relief against recovery is granted by courts not because of any right in the employees, but in equity, exercising judicial discretion to relieve the employees from the hardship that will be caused if recovery is ordered. But, if in a given case, it is proved that the employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where the error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, courts may, on the facts and circumstances of any particular case, order for recovery of the amount paid in excess."

(emphasis added)

8. Moreover, a Co-ordinate Bench of this Court in **CWP-9346-2011**, titled as ***Omi Devi vs Uttar Haryana Bijli Vitran Nigam Limited and others***, decided on **23.05.2012**, has explicitly held that non-payment of the Death-cum-Retirement Gratuity (DCRG) benefit by citing an audit objection is untenable and an audit objection cannot *per se* be a ground for withdrawal of the benefit, if the amount was not determined during the service of the deceased employee.



9. Recovery of any monetary benefit, cannot be sustained merely on the basis of an audit objection, particularly where such benefit was determined and paid without any misrepresentation or fraud on the part of the recipient. As held by the Hon'ble Supreme Court in *ITC Ltd's case (supra)*, following by *Syed Abdul Qadir's case (supra)*, equity demands that relief against recovery be granted when the excess payment arose from a wrong application of rules or erroneous interpretation by the employer and not from any fault of the employee. Furthermore, as explicitly held by the Coordinate Bench of this Court in *Omi Devi's case (supra)*, an audit objection, *per se*, cannot constitute a valid ground to withdraw or recover DCRG benefits, especially when the amount was not even determined during the lifetime of the deceased employee. Therefore, where the employer seeks to effect recovery solely on the strength of an audit objection, without establishing any knowledge, misrepresentation or fraud on the part of the beneficiary, such recovery is legally untenable and liable to be set-aside.

10. In the present case, the petitioner retired from service on 15.12.2021 and at the time of retirement, no disciplinary proceedings were pending against him. Despite this, his retiral benefits were released in a staggered and delayed manner over a period of time as his GPF was released on 10.05.2022, leave encashment on 27.04.2022, provisional pension on 25.08.2022, and the final pension order was issued only on 26.03.2025. Even the gratuity of the petitioner was released on 15.05.2025, and that too after effecting substantial deductions. Although



the petitioner was entitled to gratuity of Rs.20,00,000/-, an amount of Rs.11,20,164/- was deducted at the time of its release. This deduction was made without issuing any show cause notice; without conducting any inquiry and without affording any opportunity of hearing to the petitioner. The respondents have attempted to justify the recovery on the basis of old audit objections and alleged shortages of material, however, no disciplinary proceedings were ever initiated or concluded to determine and quantify any liability against the petitioner, in accordance with law. It is further an admitted position that an amount of Rs.5,25,000/- had already been recovered earlier and the same has again been adjusted, which clearly indicates duplication in recovery and lack of clarity in the calculations. In these circumstances, the recovery from gratuity, having been effected without due process of law and without any final determination of liability, cannot be sustained.

11. Accordingly, the present writ petition is allowed in the following terms:

- 1. The recovery of Rs.11,20,164/- effected from the gratuity of the petitioner vide gratuity payment order dated 26.03.2025 (Annexure P-8) is quashed.***
- 2. The respondents are directed to refund the recovered amount, after adjusting any amount already refunded, to the petitioner within a period of three months from the date of receipt of certified copy of this order.***
- 3. The petitioner shall also be entitled to interest @ 6% per annum on the amount illegally recovered, from the date of recovery till the date of actual payment.***

2026:PHHC:069013



4. The respondents shall further pay interest @ 6% per annum on delayed payment of retiral benefits i.e. arrears of pension, gratuity, commutation and leave encashment, etc., to be calculated from the date the said amounts became due till the date of actual payment, within the same period of three months.

12. It is made clear that any deviation from the directions issued by this Court, would entitle the petitioner to move an appropriate application under Article 215 of the Constitution of India seeking initiation of contempt proceedings against the respondents.

**(HARPREET SINGH BRAR)
JUDGE**

05.05.2026
yakub

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