2026:PHHC:013216

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-9234 of 2024

Gurmail Singh

......Petitioner

Versus

State of Punjab and others

......Respondents

Sr. No.	Particulars	Details
1.	The date when the judgment is reserved	16.01.2026
2.	The date when the judgment is pronounced	29. 01.2026
3.	The date when the judgment is uploaded on the website	29. 01.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Rakesh Sobti, Advocate,
for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR, J.

1. Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ of *certiorari* quashing the charge-sheet dated 17.04.2020 (Annexure P-4), issued by respondent No.1, on the basis of instructions dated 06.01.2017, which were non-existing on the date of allegation pertaining to the period from October, 2006 to September, 2009, along with all consequential departmental proceedings, including enquiry report dated 11.05.2022, (Annexure P-5) submitted by the inquiry officer, and also the order dated 23.02.2024 (Annexure P-7), whereby punishment of 25% permanent cut in pension of the petitioner has been awarded.

2. Brief facts of the case, as pleaded in the petition, are that the petitioner joined the respondent-department as Agriculture Inspector on 20.11.1986 and he was promoted from time to time. On 04.03.2020, he was promoted to the post of Chief Agriculture Officer/ Deputy Director Agriculture and retired as such on 31.08.2020. While posted as Insecticide Inspector in the office of the Chief Agriculture Officer, Bathinda, petitioner took/filled the sample of Methalene 5% DP of M/S Lachman Dass and Sons, Bathinda on 10.10.2006 and the same was deposited in the office of the Chief Agriculture Officer, Bathinda. The said sample was sent to the Insecticide Testing Lab., Punjab Agricultural University, Ludhiana, for its analysis which was declared mis-branded by the Insecticide Testing Laboratory, Ludhiana. The sample was again sent for re-testing to the C.I.S.L. Faridabad, and during re-testing, the C.I.S.L. Faridabad, after having found this sample mis-branded, sent its report to the office of the Chief Agriculture officer, Bathinda, which was received on 29.05.2007. The Chief Agriculture Officer, Bathinda, cancelled the license of the concerned Firm M/S Lachman Dass and Sons, vide letter No.1432 dated 13.03.2007 and sent to the concerned Insecticide Inspector, Bathinda, for further necessary action. Thereafter, the petitioner, who was the then Insecticide Inspector, Bathinda, for the purpose of initiating prosecution against the Firm and the concerned persons, forwarded the consent Performa under Section 31(1) of the Insecticide Act, 1968, vide letter No. Special-1 dated 31.03.2008 to the office of the Chief Agriculture Officer, Bathinda. However, the Chief Agriculture Officer,

Bathinda, failed to take timely action and kept the matter pending with him. Subsequently, the file was forwarded for obtaining written consent/sanction under Section 31(1) of the Insecticide Act, 1968, from the Joint Director, Agriculture (P.P.) Punjab, Chandigarh, vide letter No.3565 dated 22.06.2009, resulting in an inordinate delay of about 14 months and 22 days. Thereafter, the requisite sanction for prosecution was received from the Joint Director, Agriculture (P.P.) Punjab, Chandigarh vide letter No.1316-1318/A.D.O. dated 31.10.2009, after a delay of approximately 4 months and 8 days. On the receipt of sanction so granted, the petitioner instituted proceedings before the competent court against the Firm and concerned persons on dated 13.07.2011. It is thus, evident that the complaint was filed after a lapse of approximately 4 years, 1 month and 13 days from the date of receipt of re-testing report from the C.I.S.L. Faridabad. It is further pleaded that the sanction to file the complaint was accorded by the Joint Director, Agriculture, on 31.10.2009. However, by that time, the petitioner had already been transferred from the office of the Chief Agriculture Officer, Bathinda, to the office of the Chief Agriculture Officer, Gurdaspur, vide order dated 31.8.2009, issued under endorsement No. 5/6/09-Agr,-1(2)/5593 Chandigarh dated 31.8.2009 (Annexure P-1).Immediately upon receiving intimation regarding the grant of sanction, the petitioner took prompt steps in the matter and after collecting the requisite documents from the office of the Chief Agriculture officer, Bathinda, the concerned dealers, as well as from the Head Office, Chandigarh, filed Complaint No.18 dated 13.07.2011 before the Court of the learned Chief Judicial Magistrate, Bathinda. However, the accused, challenged the aforesaid proceedings by filing CRM-M-28476-2014 before this Court, seeking quashing of the summoning order dated 13.07.2011 passed by the learned Chief Judicial Magistrate, Bathinda, as well as the order dated 09.06.2014 passed by the learned Additional Sessions Judge (Fast Track Court), Bathinda, along with all other subsequent proceedings arising therefrom, on the ground that the complaint had been instituted beyond the prescribed period of 3 years from the date on which the cause of action arose, or from the date on which the Laboratory report regarding the alleged misbranding came to the knowledge of the Inspector. Vide order dated 17.07.2019 (Annexure P-2) passed in CRM-M- No.28476 of 2014, this Court directed the authorities to initiate departmental proceedings against the person or persons found responsible for causing the delay in filing the complaint. In compliance to the aforesaid order of this Court, the matter was examined to ascertain the cause and responsibility for the delay in instituting the complaint before the Court. Thereafter, respondent No.1, issued a chargesheet to the petitioner, vide Memo No.7/15/20-Agri.1(2)/4074 dated 17.04.2020 (Annexure P-4), alleging violation of the instructions issued by the office of the Director, Agriculture, vide letter No. Jt. D.Agri.(P.P.1)/145-67 dated 06.01.2017. As per the said instructions, an application for approval under Section 31 (1) of the Insecticide Act, 1968 is required to be submitted within 30 days of re-testing, upon the sample of pesticides being found misbranded, and the case is required to be filed/registered before the competent Court within 30 days of receipt of such approval. Respondent No.1 appointed Dr. R.C. Nayyar, I.A.S. (Retd.) as Inquiry Officer for holding the regular departmental enquiry against the petitioner and he submitted his enquiry report vide his letter dated 11.05.2022 (Annexure P-5). Upon receipt of the aforesaid enquiry report, the petitioner submitted a representation dated 27.03.2023 (Annexure P-6), wherein he denied all the charges levelled against him and stated that the proposal seeking sanction had itself been forwarded by the office of the Chief Agriculture Officer, Bathinda , after a delay of 14 months 22 days and that the Joint Director, Agriculture (P.P.) had further taken 4 months and 8 days in granting the sanction under Section 31(1) of the Insecticide Act, 1968. He further explained that the delay on his part was neither deliberate nor intentional, but was occasioned on account of his transfer at Far-off place and the time consumed in collecting the requisite documents from the office of the Chief Agriculture Officer, Bathinda, the concerned dealer, as well as from the Head Office, Chandigarh. He has also clarified that the Government Pleader had also raised certain objections on several occasions and for that sufficient time was consumed to address the same and for filing of the complaint before the Court. Thereafter, respondent No.1 awarded a punishment of 25% cut in pension of the petitioner, vide order dated 23.02.2024 (Annexure P-7). Hence, the present writ petition.

3. Pursuant to the issuance of notice of motion, respondents No.1 to 3 have filed their written reply stating therein that the petitioner

instituted the complaint against the accused persons beyond the prescribed period of limitation. The petitioner has been found negligent on account of violation of the instructions issued by the Director, Agriculture, Punjab. It has further been stated that the petitioner has neither any cause of action nor the requisite *locus standi* to maintain the present writ petition, inasmuch as the impugned order dated 23.02.2024 has been passed strictly in compliance with the directions issued by this Court dated 17.07.2019. The due procedure as contemplated by the Punjab Civil Services (Punishment and Appeal) Rules, 1970 has been followed in the present case.

4. Learned counsel for the petitioner contended that the impugned order passed by the respondents, whereby a punishment of 25% cut in the pension of the petitioner has been imposed, is illegal, arbitrary and violative of principles of natural justice. It was further submitted that, after retirement, a Government employee ceases to be in service and is thereafter governed by the Punjab Civil Services Rules, Volume-II. Consequently, prior to imposing any cut in pension, it was mandatory for the respondents to issue a show cause notice to the petitioner under Rule 2.1 of the PCSR, Volume-II, which has not been done in the present case. He further contended that the impugned order does not record any finding that the petitioner had committed grave misconduct, which is a mandatory precondition under the Rules for imposing a severe punishment such as a permanent cut of 25% in pension. Therefore, a punishment imposing a cut of 25% in pension of the petitioner is grossly disproportionate, particularly when no

pecuniary loss has been caused to the Government nor is any recovery sought from the petitioner. In support of his contentions, learned counsel for the petitioner has placed reliance upon the judgments of this Court in ***LPA-340 of 2017 – Gurcharan Singh v. State of Punjab and others decided on 08.02.2023*** and ***LPA-1389 of 2017 –Major Singh Sandhu v. State of Punjab and others decided on 13.04.2023***.

5. *Per contra*, learned State counsel has supported the impugned order by submitting that the petitioner has rightly been awarded the punishment of 25% cut in his pension as he was responsible for causing delay in filing a complaint in the Court against the accused persons. The punishment has been awarded after following the due procedure of law. Therefore, the present writ petition is liable to be dismissed.

6. I have heard learned counsel for the parties and perused the record.

7. In the present case, the petitioner has been awarded the punishment of a permanent cut of 25% in his pension after retirement, on the allegation of delay in filing a complaint in Court against the accused while he was in service. It is an admitted fact that no financial loss, whatsoever, has been caused to the State exchequer on account of the act attributed to the petitioner. A Division Bench of this Court, in ***Gurcharan Singh's case (supra)*** while considering similar issue, has held as under: -

> *"In the absence of any finding against the appellant that he was responsible for causing financial loss to the Municipal Council either by the enquiry officer or by*

respondent No.1, it was not open to the learned Single Judge to give a finding that financial loss was caused to the Municipal Council on the basis of assumptions and presumptions without any material on record.

Only if there is a finding of financial loss caused to Government by the enquiry office or respondent no.1, Rule 2.2(b)of the Rules can be invoked. It permits recovery of pension after it has been sanctioned as a punitive measure in order to make good loss to the Government on account of negligence on the part of an employee.

In the absence of any finding of loss caused to the Government either by the enquiry officer or by respondent No.1, no recovery from pension could have been ordered as a punitive measure by the respondents.

Therefore, this Appeal is allowed; the judgment dt.18.11.2016 passed by the learned Single Judge in CWP-3418-2014 and the impugned order dt.21.05.2013 (P6) passed by respondent No.1 are set aside; and the respondents are directed to pay back to the appellant the amounts deducted from his pension from 21.05.2013 till date with interest @ 6% per annum from the date of such deduction till the date of repayment."

8. Similar view has been taken by this Court in ***Major Singh Sandhu's case (supra)*** by relying on ***Gurcharan Singh's case (supra),*** which reads as under: -

"It is not in dispute that as per Rule 2.2 (b) of the Rules relating to grant of pension, any cut in pension can be ordered only if there is a peculiar loss caused to the Government.

When no peculiar loss has been caused to the State, as per the affidavit filed in the appeal on 24.01.2019 by the Assistant Director, there is no justification warranting imposition of 10% cutting pension on the appellant. The *learned Single Judge, in our opinion, has erred in giving a finding that loss has been caused to the respondents, which was not warranted.*

In ***Gurcharan Singh Vs. State of Punjab and others*** *order dt.08.02.2023 in LPA-340-2017, in a similar situation, this Court has taken a view that only if there is finding of financial loss caused to the State, Rule 2.2(b) of the Pension Rules can be invoked, and no recovery from pension can be ordered as a penalty measure by the State in the absence of any loss caused to the Government.*

In this view of the matter, the Letters Patent Appeal is allowed; order of the learned Single Judge dt.01.02.2017 in CWP-2779-2014 to the extent the learned Judge held that the 10% cut in pension made by the respondents from the Pension payable to the appellant is set aside, and the respondents are directed to refund to the appellant the amount of such deduction made from his pension from the date from which it was made till date within 08 weeks from the receipt of a copy of this order with interest @ 6% per annum from respective to the dates of deduction till the date of actual payment, and respondents are directed to refund 10% deduction from pension made for the period of 3 years pursuant to the orders dt.15.10.2012 (P-7) and 22.01.2013 (P-9) within 08 weeks with interest @ 6% per annum."

9. In view of the foregoing discussion and in the absence of any finding that the petitioner was responsible for causing any financial loss to the respondent-department, the Chargesheet as well as the impugned order of punishment cannot be sustained in the eyes of law. The action of the respondents is contrary to the Statutory rules governing post-retiral proceedings and is vitiated by the absence of any finding of grave misconduct or financial loss caused to the state

exchequer. Consequently, the impugned proceedings suffer from arbitrariness and cannot be permitted to stand. Accordingly, the present petition is allowed. The Charge-sheet dated 17.04.2020 (Annexure P-4) as well as the impugned order of punishment dated 23.02.2024 (Annexure P-7) are hereby set aside. The respondents are directed to refund to the petitioner the amounts deducted from his pension, from the date such deductions were effected till the date of actual refund along with interest at the rate of 6% per annum, within a period of eight weeks from the date of receipt of a certified copy of this order.

(NAMIT KUMAR)
JUDGE

29.01.2026
R.S.

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No