



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

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CWP-9494-2023(O&M)

Date of Decision: **23.03.2026**

Jaspal Singh

.....Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Ajay Kumar Chaudhary, Advocate for the petitioner.

Mr. Vikas Sonak, AAG Punjab-State.

Mr. Jaspreet Singh with Mr. Rishav Jain and Ms. Shivaly Singla, Advocate for respondent No.4.

Mr. Akshay Rawal, Advocate for respondent No.5.

HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been filed under Article 226 of the Constitution of India with a prayer for issuance of an appropriate writ or order in the nature of *mandamus* for directing the respondents to release all the retirement dues of the petitioner to him i.e. the amount of gratuity, leave encashment, balance of the amount of General Provident Fund, amount of commuted value of pension and to sanction regular pension along with



interest @ 12% per annum on the arrears of all such dues from the date of his retirement i.e. 31.08.2022.

PETITIONER'S CONTENTIONS

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was appointed as Survey Khalasi, a Class-IV (Group-D) post, on 02.05.1990. After his appointment, the petitioner discharged his duties diligently, with utmost sincerity and to the complete satisfaction of his superiors. On 17.01.2005, owing to the non-availability of a regularly appointed Work Mistri since 16.08.2004, the petitioner was entrusted with the additional charge of Work Mistri. Keeping in view the petitioner's experience and satisfactory performance over a period of 16 years, particularly in discharging the duties of Work Mistri w.e.f. 17.01.2005, the Chairman, Town Improvement Trust, Batala (respondent No.5), sought guidance from respondent No.2 and vide letter dated 21.08.2006, requested permission to promote the petitioner to the post of Work Surveyor, as is evident from Annexure P-1. In response, respondent No.2, vide memo dated 22.12.2006 (Annexure P-2), clarified that there was no restriction on making promotions and that the Town Improvement Trust, Batala was competent to fill the posts of Survey Khalasi and Surveyor at its own level.

2.1 Subsequently, respondent No.5, vide letter dated 20.03.2007 (Annexure P-3), apprised respondent No.2 that although the petitioner possessed adequate experience and a satisfactory service record, he did not hold a Diploma in Surveying, and sought approval for his promotion to the post of Surveyor on the basis of experience alone. In continuation thereof,



respondent No.2, vide memo dated 21.03.2007 (Annexure P-4), reiterated that approval had already been granted and directed that the promotion be effected in accordance with the applicable rules/instructions. Pursuant to the aforesaid correspondence, the petitioner was promoted to the post of Surveyor vide order dated 12.04.2007 (Annexure P-5).

2.2 Learned counsel further refers to Section 18 of the Punjab Town Improvement Trust Act, 1922, to contend that the posts of Survey Khalasi and Surveyor in the Town Improvement Trust are non-provincialized, and the Chairman is competent to make appointments/promotions to such posts. It is thus contended that the petitioner's promotion was effected by the competent authority and has remained unchallenged till date. It is further submitted that the petitioner successfully cleared the departmental test, securing 70 out of 100 marks, as reflected in the result dated 08.01.2020 (Annexure P-8), and was consequently promoted to the post of Junior Engineer (Civil) vide order dated 24.01.2020 (Annexure P-9) issued by respondent No.2. Thereafter, his pay was revised vide order dated 30.06.2021 (Annexure P-10). Ultimately, the petitioner superannuated from service on 31.08.2022 while holding the post of Junior Engineer.

2.3 However, the retiral dues of the petitioner were not released on account of respondent No.5 withholding the issuance of a 'No Objection Certificate', relying upon an audit report pertaining to the period April 2005 to March 2016, wherein the petitioner was called upon to produce a Surveyor Diploma vide letter dated 14.07.2022 (Annexure P-11). Learned



counsel submits that the petitioner had duly clarified that the post of Surveyor in the Town Improvement Trust is non-provincialized and that the Chairman is competent to effect such promotions.

2.4 It is further contended that the petitioner submitted several representations seeking redressal of his grievance, as evidenced by Annexures P-13 to P-16; however, his retiral dues have not been fully released and respondent No.5 has declined to issue the requisite 'No Objection Certificate'. It is submitted that although certain amounts, namely GPF (paid on 10.07.2024), leave encashment (paid on 15.09.2023), and 90% provisional pension (released on 30.11.2023), have been disbursed, albeit only after the filing of the present writ petition; no gratuity has been paid to the petitioner till date. Learned counsel further submits that the raising of objections after a lapse of nearly 15 years, and that too at the stage of retirement, is wholly unjust, arbitrary and unsustainable in law. In support of his submissions, reliance is placed upon the judgments of this Court in ***Rajinder Singh vs. Uttar Haryana Bijli Vitran Nigam and others* (CWP-36946-2025, decided on 11.12.2025)** and ***Omi Devi vs. Uttar Haryana Bijli Vitran Nigam Limited and others* (CWP-9346-2011, decided on 23.05.2012)**, to contend that no recovery or withholding of retiral benefits can be effected post-retirement on the basis of audit objections, without conducting any inquiry or affording an opportunity of hearing.

2.5 Learned counsel further submits that no charge-sheet or disciplinary proceedings were pending against the petitioner at the time of



his retirement and, therefore, the withholding of his retiral dues is legally untenable and liable to be set aside.

RESPONDENTS' CONTENTION

3. *Per contra*, learned State counsel submits that in terms of Rule 11 of the Punjab Improvement Trust Rules, 1939, framed under Section 73 of the Punjab Town Improvement Trust Act, 1922, the accounts of the Improvement Trust, Batala for the period from April 2005 to March 2016 were duly audited. Pursuant thereto, the audit report was forwarded to respondents No.2, 4 and 5 vide communication dated 17.03.2017 for taking necessary action. It is submitted that the audit report specifically records that the requisite qualification of the petitioner, namely the Diploma in Surveying for the post of Surveyor, was not produced or placed on record for the purpose of audit verification. In the absence of such essential qualification, the petitioner's promotion to the post of Surveyor could not be validated in accordance with the applicable rules. It is further submitted that requisite documents were repeatedly sought for verification; however, till date, the petitioner has failed to furnish the diploma certificate in support of his eligibility for promotion, and respondent No.4 has also not produced the same. Consequently, the objection raised in the audit report continues to subsist, disentitling the petitioner from claiming the benefits arising out of the said promotion.

4. On the other hand, learned counsel for respondent No.5 submits that the promotion order of the petitioner expressly stipulated that in the



event the promotion is declared invalid by the Government, Audit authorities, or any Court of law, the same shall be deemed to be null and void, and the petitioner would revert to his substantive post of Survey Khalasi.

4.1 Learned counsel further submits that the petitioner, having accepted the said promotion subject to the aforesaid condition, is estopped from challenging or disputing the consequences flowing therefrom. The terms and conditions of the promotion order, being binding upon the petitioner, preclude him from agitating the issue contrary to the stipulation so accepted.

OBSERVATIONS AND ANALYSIS

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

6. The core issue that arises for consideration in the present writ petition is whether the respondents are justified in withholding the retiral dues of the petitioner on the basis of an audit objection pertaining to his promotion to the post of Surveyor, raised after an inordinate delay and at the verge of his retirement.

7. It is not in dispute that the petitioner was initially appointed as Survey Khalasi on 02.05.1990 and was subsequently promoted to the post of Surveyor vide order dated 12.04.2007 (Annexure P-5), after due correspondence between respondent No.5 and respondent No.2. The said



promotion was effected with the knowledge and approval of the competent authorities and remained in force for more than a decade without any objection. Thereafter, the petitioner further earned promotion to the post of Junior Engineer (Civil) in the year 2020 and ultimately retired on 31.08.2022.

8. The objection raised by the respondents is founded upon an audit report pertaining to the period April 2005 to March 2016, wherein it has been pointed out that the petitioner did not possess a Diploma in Surveying, which is allegedly an essential qualification for the post of Surveyor. However, this Court finds that such objection has been raised belatedly, after the petitioner has already served on the promotional post for a considerable period and even earned a further promotion therefrom.

9. Significantly, there is nothing on record to indicate that any proceedings were initiated during the service tenure of the petitioner to either annul his promotion or to take disciplinary action on account of the alleged deficiency in qualification. No charge-sheet or departmental inquiry was pending against the petitioner at the time of his retirement.

10. It is well settled that the retiral benefits of an employee constitute a valuable right and cannot be withheld except in accordance with law. The respondents cannot, at the stage of retirement, seek to reopen settled issues relating to promotion, particularly when the same had attained finality long ago and the petitioner had discharged his duties on the promotional post without any demur from the authorities.



11. The contention of the respondents that the promotion was subject to a condition rendering it liable to be declared void at a later stage also does not advance their case. Such a stipulation cannot be invoked in an arbitrary manner after an inordinate delay of more than 15 years, especially in the absence of any formal order setting aside the promotion during the service tenure of the petitioner. Mere existence of such a clause does not dispense with the requirement of taking timely and lawful action.

11.1 At this stage, it would be apposite to refer to Section 18 of the Punjab Town Improvement Trust Act, 1922, which reads as under:

“Power of trust to fix number and salaries of its servants.

(1) Subject to the provisions of section 17 and the rules which the State Government may make in this behalf, the trust may, from time to time, employ such other servants on such terms and conditions as it may deem necessary and proper for carrying out its functions under this Act.

*(2) **The power of appointing, promoting** and granting leave to such servants and reducing, suspending or dismissing them for misconduct and dispensing with their services for any reason other than misconduct **shall be vested in the Chairman.**”*

11.2 A perusal of the aforesaid provision makes it abundantly clear that the Chairman of the Trust is the competent authority to make appointments and promotions in respect of non-provincialized posts. In the present case, the petitioner was promoted to the post of Surveyor by the Chairman of the Town Improvement Trust, Batala, in exercise of the powers



vested under the aforesaid provision. Thus, the promotion of the petitioner cannot be said to be without jurisdiction or de hors the statutory framework.

11.3 In view of the above statutory mandate, the objection raised by the audit authorities with regard to the validity of the petitioner's promotion loses much of its force, particularly when the competent authority had consciously exercised its powers and the said promotion remained unchallenged throughout the petitioner's service career.

12. Furthermore, the reliance placed upon the audit objection is misconceived. An audit objection, by itself, does not confer any authority upon the respondents to withhold retiral dues, particularly in the absence of any adjudication or determination of liability in accordance with law. The respondents were required to take appropriate action, if any, during the service period of the petitioner, which admittedly was not done.

13. Further the issue involved in the present writ petition is no longer res integra. The Division Bench of this Court in *Ashok Kumar Dhamija v. Dakshin Haryana Bijli Vitran Nigam Limited and others*, passed in *CWP-7949-2005*, decided on 21.09.2006 and *Surjeet Singh Bedi v. Dakshin Haryana Bijli Vitran Nigam Limited and others*, passed in *CWP-1062-2012*, decided on 04.12.2013 and *Kirat Gopal vs Haryana Vidyut Parsaran Nigam Limited and others*, passed in *CWP-13039-1999*, decided on 20.03.2000, has already held that where amounts have been illegally recovered from an employee, the same shall be refunded along with



interest. The relevant part of the judgment passed in **Ashok Kumar Dhamija's case (supra)**, reads as follows:-

Having heard the learned counsel for the parties, we are of the considered view that the respondents could not have with-held any amount of gratuity payable to the petitioner on account of allegation which have emanated after the date of his retirement. Such a course is not available to the respondents. In some what similar circumstances, this Court has earlier also in the case of Hans Raj Sharma v. Uttar Haryana Bijli Vitran Nigam Limited and others (Civil Writ Petition No. 152 of 2004, decided on October 29, 2004) has allowed the writ petition by following the judgment of Hon'ble the Supreme Court in P.R. Naik v. Union of India, AIR 1972 SC 554. It has been laid down in the aforementioned judgment that issuance of charge-sheet for initiation of departmental enquiry is a sine qua non.

In view of the above, we allow the writ petition and quash the impugned order dated March 1, 2005 (P-14). We further direct the respondents to release the balance of gratuity amount to the petitioner within a period of one month from the date a certified copy of this order is presented to the respondents. In case, the needful is not within one month, then the petitioner shall be entitled to interest at the rate of 6% per annum from the date the amount is payable till its actual payment.

14. Moreover, a Coordinate 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.

15. This Court is of the considered opinion that the action of the respondents in withholding the retiral dues of the petitioner, particularly gratuity, is wholly arbitrary, unjustified and unsustainable in the eyes of law.

16. Consequently, in view of the aforesaid facts and circumstances, the present writ petition is allowed. The respondents/competent authority are directed to release/refund all the withheld retiral dues of the petitioner, including amounts of any deduction made on the basis of the impugned action, along with interest @ 6% per annum. The interest shall be computed from the date the retiral dues became payable, i.e. after the expiry of two months from the date of retirement of the petitioner, till the date of its actual realization. The aforesaid exercise shall be completed within a period of three months from the date of receipt of a certified copy of this order.

17. Needless to say, any deviation from the directions issued herein would entitle the petitioner to approach this court under Article 215 of the Constitution of India for initiating contempt proceedings.

18. Pending application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

23.03.2026
Puneet Chawla

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