2026:PHHC:070930

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-11639-2026 (O&M)
Date of decision: 07.05.2026

Chander Shekhar Pathak

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shobit Phutela, Advocate
with Ms. Arundhati, Advocate for the petitioner.

Mr. Amit Shukla, DAG, Punjab.

Mr. Rupam K. Aggarwal, Advocate
for respondents No.2 and 3.

<u>HARPREET SINGH BRAR J. (Oral)</u>

1. Prayer in this writ petition filed under Articles 226 and 227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for setting-aside the impugned memorandum dated 27.10.2025 (Annexure P-4) issued by respondent No.4. Further a writ of *mandamus* has been sought, directing the respondents to release all remnant retiral benefits of the petitioner along with all consequential dues. Another prayer has been made to restrain the respondents from proceeding further with any disciplinary proceedings pursuant to the impugned memorandum dated 27.10.2025.

2. Learned counsel for the petitioner, *inter alia*, contends that merely 3-4 days prior to petitioner's superannuation on 31.10.2025, the respondent No.2 issued the impugned memorandum dated 27.10.2025 (Annexure P-4) alleging negligence and irregularities in execution of one agreement. The allegations made therein are wholly misconceived and contrary to the record, which ignores the prior approval and subsequently ratification by the respondents themselves. Further, there is no statutory mechanism which empowers the respondents to continue with the departmental proceedings after the retirement of the petitioner and as such, the impugned memorandum dated 27.10.2025 (Annexure P-4) is liable to be set-aside on this ground alone.

3. On the last date of hearing i.e. 20.04.2026, learned counsel for respondents No.2 and 3 sought time to cite the applicable rules and regulations which empowers the respondent/Corporation to initiate or continue with the disciplinary proceedings against a retired employee.

3.1. Today, learned counsel for respondents No.2 and 3 is unable to cite any rule or regulation and instead, he has produced one copy of the order dated 01.01.2026 (taken on record as Mark X), which shows that only a fact finding enquiry has been initiated and the petitioner was directed to appear before the Enquiry Officer on the time, date and place fixed by him.

3.2. Learned State counsel as well as learned counsel for respondents No.2 and 3 submits that in terms of Rule 2.2(b) of the

Punjab Civil Services Rules, the respondent/Corporation is empowered to withhold the retiral dues of the petitioner. In support of the arguments, learned counsel for respondents No.2 and 3, relies upon the judgment rendered by this Court in **CWP-10290-2016** and connected matters, titled as ***Punjab Agro Foodgrains Corporation Limited and another vs Mohan Singh and others,*** decided on **16.01.2025**.

4. Having heard learned counsel for the parties and after perusal of the record, it transpires that the petitioner stood retired on 31.10.2025 and the impugned memorandum dated 27.10.2025 was issued to him. Learned counsel for respondents No.2 and 3 in spite of availing the opportunity has not been able to cite any judicial precedent or statutory provision empowering the respondent/Corporation to continue with the disciplinary proceedings against the petitioner post-retirement. Further, the reliance of the petitioner on ***Mohan Singh's case (supra)***, is totally misconceived as the same is distinguishable on facts. The issue before the Coordinate Bench of this Court was whether any amount due to the employer, keeping in view any misconduct committed by the employee concerned, prior to his retirement can be recovered from the gratuity or retiral dues of the petitioner or not, whereas in the present case, the issue relates to continuation of disciplinary proceedings against an employee post-retirement.

5. The disciplinary proceedings can be initiated or continued post-retirement only if the applicable Punishment and Appeal Rules or

Service Regulations specifically empower the employer to do so. The Hon'ble Supreme Court in ***Chairman-cum-Managing Director, Mahanadi Coalfields Limited vs. Sri Rabindranath Choubey, 2020(2) SCT 554***, has held that where disciplinary proceedings are initiated prior to superannuation, the same may continue even after retirement and are required to be taken to their logical conclusion in accordance with the governing service regulations. However, the said principle is applicable only where the statutory framework governing the service conditions expressly permits continuation of such proceedings after retirement. In the present case, the respondents have failed to point out any rule, regulation or statutory provision under the applicable service rules which authorizes the initiation or continuation of disciplinary proceedings after the retirement of an employee, once the employer – employee relationship stands extinguished. In the absence of any such enabling provision, the continuation of disciplinary proceedings against the petitioner post-retirement is without jurisdiction and legally unsustainable.

6. In view of the above, the present petition is allowed and the impugned memorandum dated 27.10.2025 (Annexure P-4) is set-aside. The respondents are directed to release all the retiral benefits of the petitioner along with interest @ 6% per annum, to be calculated after the expiry of two months from the date of retirement of the petitioner till its actual realization, in terms of the judgment rendered by the Full

Bench of this Court in ***A.S. Randhawa Supg. Engineer (Retd.) vs. State of Punjab 1998 (1) SCT 343***.

7. The registry is directed to tag the order dated 01.01.2026, taken on record as Mark X, on file at appropriate place.

(HARPREET SINGH BRAR)
JUDGE

07.05.2026
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No