

CWP-16405-2020(O&M)

2026.PHHC.051460



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

225

CWP-16405-2020(O&M)
Date of Decision: 01.04.2026

Gopal Krishan

.....Petitioner

VERSUS

Uttar Haryana Bijli Vitran Nigam Limited and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. R.K. Choudhary, Advocate for the petitioner.

Mr. Satyam Tandon with Mr. Akshay Verma, Advocate for the respondents.

HARPREET SINGH BRAR, J. (Oral)

1. The petitioner has approached this Court by filing the present writ petition under Articles 226/227 of the Constitution of India praying for issuance of a writ in the nature of *certiorari* for quashing the impugned charge sheets dated 30.09.2019 (Annexure P-2), 09.02.2021 (Annexure P-5) and letter/order dated 11.06.2020 (Annexure P-4) issued by respondents in view of judgments Annexure P-6 dated 12.08.2010, Annexure P-7 dated 29.03.2011 and Annexure P-8 dated 19.01.2012, which are totally against the facts and are illegal without jurisdiction. Further praying for issuance of a writ in the nature of *mandamus* directing the respondents to release the withheld amount of DCRG Rs.5,69,296/- along with 12% interest per

CWP-16405-2020(O&M)

2026.PHHC.051460



annum, in view of the law laid down by this Court in several judgments Annexure P-9 dated 14.10.2019, Annexure P-10 dated 22.10.2019 and Annexure P-11 dated 21.09.2006.

PETITIONER'S CONTENTION

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner, after rendering service with the respondent-Nigam, retired on 31.05.2019 from the post of Junior Engineer. It is submitted that subsequent to his retirement, two charge-sheets dated 30.09.2019 (Annexure P-2) and 09.02.2021 (Annexure P-5) came to be issued. Learned counsel argues that there exists no provision or statutory regulation empowering the respondent-Nigam to initiate or continue disciplinary proceedings against an employee after retirement.

2.1 It is further contended that the charge-sheet (Annexure P-2) has been purportedly issued under Regulation 7 of the UHBVN Employee (P&A) Regulations, 2018, read with Chapter III of the Haryana Civil Services (Pension) Rules, 2016; however, neither of the said provisions authorizes initiation of disciplinary proceedings post-retirement in the absence of an express enabling provision.

2.2 In support of his submissions, learned counsel places reliance upon the judgments rendered by the Coordinate Benches of this Court in

CWP-16405-2020(O&M)

2026.PHHC.051460



Jogi Ram vs. Haryana State Federation of Consumer's Co-operative Wholesale Stores (CWP-1873-2014, decided on 23.05.2014), Ranbir Singh Dahiya vs. Haryana State Federation of Consumers Cooperative Wholesale Stores (CONFED) and another (CWP-31311-2018, decided on 23.02.2023), and S.C. Jain vs. Managing Director, The Haryana State Federation of Consumers Cooperative Wholesale Stores Limited and another (CWP-15247-2011, decided on 22.05.2013), to contend that in the absence of a specific statutory rule, disciplinary proceedings cannot be initiated or continued once an employee has been permitted to retire.

2.3 Reliance is also placed upon 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 categorically held that in the absence of an express rule to the contrary, no departmental proceedings can be initiated or continued after retirement.

2.4 Learned counsel further refers to the judgments of this Court in *Anoop Singh vs. State of Haryana and another (CWP-21049-2017, decided on 14.10.2019)* and *Devender Singh vs. Uttar Haryana Bijli Vitran Nigam Limited and others (CWP-8655-2016, decided on 22.10.2019)*, pertaining to co-employees of the respondent–Nigam, wherein similar actions of the respondents were set aside and directions were issued for release of retiral benefits, including gratuity. Lastly, it is submitted that a

CWP-16405-2020(O&M)

2026.PHHC.051460



perusal of the Uttar Haryana Bijli Vitran Nigam Limited Punishment and Appeal Regulations, 2018 reveals that there is no provision permitting either initiation or continuation of disciplinary proceedings after retirement. Consequently, the impugned action of the respondent-Nigam in issuing the aforesaid charge-sheets to the petitioner post-retirement is wholly without jurisdiction, arbitrary, and unsustainable in the eyes of law.

RESPONDENT'S CONTENTION

3. *Per contra*, learned counsel for the respondents refers to the charge-sheet (Annexure P-2) and submits that the same was issued under Regulation 7 of the UHBVN Employee (P&A) Regulations, 2018, read with Chapter III of the Haryana Civil Services (Pension) Rules, 2016 (in short 'Rules, 2016'). It is further submitted that the respondent-Nigam, vide letter dated 20.12.2017, has adopted the Haryana Civil Services (Pension) Rules, 2016. Copy thereof has been supplied which is marked as 'X', which is ordered to be taken on record.

3.1 Learned counsel contends that under Rule 12(2)(b)(ii) of Rules, 2016, the competent authority is empowered to initiate disciplinary proceedings even after retirement. It is further submitted that the requirement of prior sanction, as contemplated under the said Rule, would not strictly apply in the present case, since the petitioner is not a Government employee but an employee of the respondent-Nigam.

CWP-16405-2020(O&M)

2026.PHHC.051460



Accordingly, it is argued that the provisions of the said Rules are applicable to the employees of the respondent-Nigam to the extent adopted, and the impugned charge-sheet has been validly issued.

3.2 He further refers to Annexure P-2 and submits that the charge sheet dated 30.09.2019 (Annexure P-2) culminated into the order of punishment on 11.06.2020 and the petitioner is required to challenge the same by filing the statutory appeal and as such, the present petition is liable to be dismissed.

OBSERVATIONS AND ANALYSIS

4. I have heard learned counsel for the parties and have perused the paper-book with their able assistance. It transpires that the petitioner retired from service on 31.05.2019 as a Junior Engineer from the respondent–Nigam. Thereafter, he was served with two charge-sheets dated 30.09.2019 (Annexure P-2) and 09.02.2021 (Annexure P-5). A perusal of the charge-sheet (Annexure P-2) clearly indicates that the same has been issued under the provisions of the Haryana Civil Services (Pension) Rules, 2016. Learned counsel for the respondents has also produced letter dated 20.12.2017 (Mark ‘X’), which shows that the respondent–Nigam has adopted the Haryana Civil Services (Pension) Rules, 2016.

CWP-16405-2020(O&M)

2026.PHHC.051460



4.1 Further, Rule 12(2)(b) of the Haryana Civil Services (Pension) Rules, 2016 provides that departmental proceedings may be instituted in respect of any event which took place not more than four years prior to such institution. The relevant extract thereof reads as under:-

“12(b) The departmental proceedings, if any instituted while the Government employee was in service, whether before his retirement or during his reemployment-

(i) shall not be instituted save with the sanction of the Government.

(ii) shall not be in respect of any event which took place more than four years before such institution....”

4.2 Further, Rule 8(18) of the Haryana Civil Services (Pension) Rules, 2016 may be reads as under:-

(18) “pension” means a recurring or non-recurring payment made to a Government employee after retirement, in lieu of qualifying service rendered by him subject to future good conduct. pension includes death-cum-retirement gratuity unless prescribed otherwise but does not include leave encashment;

4.3 Rule 11 of the Rules 2016 may be reads as under:-

11. Recovery of Government dues or others from pension.—

2026.PHHC.051460



(1) A claim against the Government employee shall become known and the question of making recovery shall arise—

(i) when the calculation of pension is being made and before the pension is actually sanctioned; or

(ii) after the pension has been sanctioned.

(2) The claim and the recovery shall be one or other of the following categories:-

(a) recovery as a punitive measure in order to make good loss caused to Government as a result of negligence or fraud on the part of the person concerned while he was in service;

(b) recovery of other Government dues such as over issues of pay, allowances or leave salary, or admitted and obvious dues such as house rent, travelling allowance, outstanding motor car, house building, or other loans and advances, licence fee, etc;

(c) Recovery of non-Government dues.

(3) Recoveries described in clause (2) (b) and (c) above shall be made from outstanding dues of the employee, such as arrears of pay and allowances, leave salary, leave encashment, death-cum-retirement gratuity, dearness relief on pension, etc., however, none of the above recoveries shall be affected by a reduction of the pension to be sanctioned or already sanctioned except with the written consent of the pensioner. If such consent is not given by the pensioner, a suit for recovery shall be filed in a court of law.

Note 1.-Heds of offices shall ensure that all the outstanding sums against the employee are adjusted against the dues of the employee such as pay, leave salary or leave encashment, death-cum-retirement gratuity, etc. In case the outstanding sums are

2026.PHHC.051460



not feasible to be recovered fully then the outstanding amount shall be clearly and completely noted in the last pay certificate for effecting recovery from death-cum-retirement gratuity and if the recovery is to be effected from pension, it shall be clearly recorded on the last pay certificate itself that the request or express consent of the pensioner in writing to recover from his pension has been obtained.

Note 2.- The recovery from pension is not permissible but if final recovery has been made it need not be refunded to the pensioner concerned.

12. Right of appointing authority to withhold or withdraw pension.— (1) The Appointing Authority reserve the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, and the right of ordering the recovery from a pension to make good of the whole or part of any pecuniary loss, if any, caused to Government, if the pensioner is found in departmental or judicial proceedings, to have—

(a) been guilty of grave misconduct or negligence committed by him but there is no pecuniary loss to Government; or

(b) caused pecuniary loss to Government by misconduct or negligence; during his service including service rendered on re-employment after retirement:

Provided that the Haryana Public Service Commission or Haryana Staff Selection Commission or any other approved Recruitment Agency, as the case may be, shall be consulted before final orders are passed:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced

2026.PHHC.051460



below the amount of minimum pension prescribed from time to time.

Note.- Pensionary benefits shall be withheld if departmental proceedings under rule 8 of Haryana Civil Services (Punishment and Appeal) Rules, 2016 involve any financial loss to Government are pending at the time of retirement.

(2) (a) The departmental proceedings referred to in sub-rule (1), if instituted while the Government employee was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government employee, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service:

(b) The departmental proceedings, if not instituted while the Government employee was in service, whether before his retirement, or during his re-employment,—

(i) shall not be instituted save with the sanction of the Government,

(ii) shall not be in respect of any event which took place more than four years before such institution, and

(iii) shall be conducted by such authority and at such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government employee during his service.

(3) In the case of Government employee who has retired on attaining the age of superannuation or otherwise and against

2026.PHHC.051460



whom any departmental or judicial proceedings are instituted or where departmental proceedings continued under sub-rule (2), a provisional pension as provided shall be sanctioned.

(4) Where the appointing authority decides not to withhold or withdraw pension but orders for recovery of pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of a Government employee.

(5) For the purpose of this rule—

(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government employee or pensioner, or if the Government employee has been placed under suspension from an earlier date, on such date ; and

(b) judicial proceedings shall be deemed to be instituted—

(i) in the case of criminal proceedings, on the date on which the complaint or report of a police officer, of which the Magistrate takes cognizance, is made, and

(ii) in the case of civil proceedings, on the date the plaint is presented in the court.

Note 1.- As soon as proceedings of the nature, referred to above, are instituted, the authority which institutes such proceedings shall without delay intimate the facts to the Principal Accountant General (Accounts & Entitlement), Haryana and Treasury Officer concerned.

Note 2.- In a case in which a pension as such is not withheld or withdrawn, but the amount of any pecuniary loss caused to Government is ordered to be recovered from the pension, the recovery shall not ordinarily be made at a rate exceeding one-

CWP-16405-2020(O&M)

2026.PHHC.051460



third of the gross pension originally sanctioned including any amount which shall have been commuted.”

4.4. The reliance placed by learned counsel for the petitioner on the judgments in ***Jogi Ram, Ranbir Singh Dahiya*** and ***S.C. Jain (supra)*** is misconceived and misplaced, inasmuch as the petitioners therein were employees of the Haryana State Federation of Consumers Cooperative Wholesale Stores Limited, which operates under a different set of service regulations. The said judgments, therefore, are clearly distinguishable on facts as well as on the applicable statutory framework and do not advance the case of the present petitioner.

4.5 Similarly, the reliance placed upon the judgments in ***Anoop Singh*** and ***Devender Singh (supra)*** is of no avail to the petitioner, as the said cases pertain to a period prior to the adoption of the Haryana Civil Services (Pension) Rules, 2016 by the respondent–Nigam vide letter dated 20.12.2017. Consequently, the legal position governing the present case stands materially altered.

4.6 It is further not in dispute that one of the charge-sheets has culminated into the order of punishment dated 11.06.2020 (Annexure P-4), against which the petitioner has an efficacious statutory remedy of appeal under the applicable Regulations, which has not been availed.

CWP-16405-2020(O&M)

2026.PHHC.051460



4.7 On a conjoint reading of the aforesaid provisions, this Court is of the considered view that the respondent-Nigam is duly empowered to initiate disciplinary proceedings against its employees even after retirement and to withhold or effect recovery from retiral benefits, in accordance with law.

5. Further, the petitioner has not placed on record the complete material pertaining to the charge-sheet dated 09.02.2021 (Annexure P-5), which has been issued in respect of alleged misconduct stated to have occurred within a period of four years prior to its institution.

5.1 In the absence of the relevant record, this Court is unable to examine the nature, scope, and factual foundation of the allegations forming the basis of the said charge-sheet. Moreover, in view of Rule 12(2)(b) of the Haryana Civil Services (Pension) Rules, 2016, departmental proceedings can validly be instituted post-retirement in respect of events occurring within four years prior thereto, subject to compliance with the prescribed conditions.

5.2 Thus, in the absence of complete pleadings and supporting documents, no conclusive finding can be recorded with regard to the legality or otherwise of the charge-sheet (Annexure P-5), particularly when the same appears to fall within the permissible statutory framework.

CWP-16405-2020(O&M)

2026.PHHC.051460



6. Accordingly, in view of the above, the present petition is dismissed, so also the pending miscellaneous application(s), if any, shall also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

01.04.2026
Puneet Chawla

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