



208(2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision : 11.05.2026
CWP-27264-2013 (O&M)

Balram

...Petitioner

Versus

State of Haryana and another

....Respondents

CWP-15810-2015 (O&M)

Balram

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashish Bansal, Legal Aid counsel Advocate for the
petitioner(s).

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Rajinder Goel, Advocate
for respondent no.2 in CWP-27264-2013.

Mr. Prateek Mahajan, Advocate and
Mr. Daanish Mahajan, Advocate
for respondents no.2 and 3 in CWP-15810-2015.

HARPREET SINGH BRAR, J. (ORAL)

1. With the consent of the parties, the above-mentioned writ petitions are taken up together and are being decided by this common judgment. For the sake of brevity, the facts are being taken from CWP No.27264 of 2013.



2. The CWP No.27264 of 2013 has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari seeking quashing of impugned order dated 19.07.2013 (Annexure P-10) and further to issue a direction to the respondents to release the withheld retiral benefits of the petitioner along with interest from the date of his retirement.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner retired from the post of Manager after attaining the age of superannuation on 31.05.2011. Three months after retirement, respondent No.2 served the petitioner with a charge-sheet on 16.08.2011 under Rule 19 of the HAFED Common Cadre Rules, 1988 (hereinafter referred to as "the Rules, 1988") on the allegations of less storage gain of wheat. The petitioner filed a detailed reply to the chargesheet on 24.01.2012 (Annexure P-3). Consequently, on 29.05.2012, the petitioner made a representation to respondent No.2 seeking release of his retiral benefits as he was facing financial hardship after retirement, followed by another representation dated 15.06.2012 (Annexure P-5). Ultimately, the petitioner served a legal notice dated 20.07.2012 upon respondent No.2 (Annexure P-6). The petitioner approached this Court by filing **CWP No.18870 of 2012** which was disposed of on 19.12.2012 (Annexure P-7) with a direction to the respondents to conclude disciplinary proceedings against the petitioner within six months. Thereafter, another notice under Rule 19.2(g) of the Rules, 1988 and a copy of the enquiry report dated 13.05.2013 was supplied to the petitioner (Annexure P-8 and P-9 respectively). Ultimately, the respondent-Federation held the petitioner responsible for less storage gain of wheat by passing the impugned order dated 19.07.2013.

4. Learned counsel for the petitioner further submits that it is not a case of embezzlement, and punishment of recovery from the retiral dues of the



petitioner was ordered solely on account of giving less gain as per moisture content. He contends that Section 17 of The Punjab Warehouses Act, 1957 provides for liability of warehouses for shortage or excess in goods stored, which stipulates that loss of weight by drayage or shrinkage within prescribed limits and gain in weight by absorption of moisture shall not be deemed to amount to deterioration. The relevant Section 17 is reproduced as under,

“(1) For the purposes of sub-section (1) of section 15 and of section 16, loss of weight or bulk by drayage or shrinkage within prescribed limits and gain in weight by absorption or moisture within such limits shall not be deemed to amount to deterioration.

(2) If there is any excess in the goods stored in a warehouse by absorption of moisture or other causes, the warehouseman shall not be entitled thereto.

(3) if there is any shortage in the goods stored in a warehouse by dry age or other causes beyond his control the warehouseman shall not be responsible therefore.”

As such, the respondent-Federation cannot invoke administrative instructions or policy decisions which are contrary to the statutory provisions of Section 17 of the Act. Admittedly, if there is any weight gain in wheat due to moisture, the Food Corporation of India does not pay any money for the same, meaning there is no actual loss to respondent No.2-Federation. He further submits that the instructions fixing norms regarding excess gain in weight issued by the State Government have come up for consideration before this Court in ***CWP No.26704 of 2015*** titled ***Ram Sawrup vs. State of Haryana and others***, decided on 10.07.2019, and this Court, while relying upon the Division Bench decision in ***CWP No.3239 of 1993*** titled ***Punjab Warehousing Fields Employees Union, Patiala and others vs. State of Punjab***, decided on 20.06.1994, held the norms to be inapplicable for recovery of amount from an employee.



5. Learned counsel for the petitioner further contends that the case of the petitioner is also covered by the judgment rendered by the Coordinate Bench of this Court in ***CWP No.15247 of 2011*** titled ***S.C. Jain vs. Managing Director, Haryana State Federation of Consumers Cooperative Wholesale Stores Ltd. and another***, decided on 22.05.2013 and the judgment of Hon'ble Supreme Court in ***Chandra Singh vs. State of Rajasthan and another, (2003) 6 SCC 545***, wherein it has been authoritatively held that in the absence of any specific Rule to the effect that once an employee is permitted to retire, departmental proceedings cannot continue.

6. *Per contra*, learned counsel for the respondent-Federation submits that the present petition is liable to be dismissed only on the ground that the petitioner has admitted his complicity and while availing personal hearing before the Managing Director, admitted his fault and even deposited the amount in question. As such, the petitioner is not entitled to the relief claimed for.

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

8. Upon perusal, it transpires that the petitioner retired on 31.05.2011 and the chargesheet under Rule 19 of the Rules, 1988 was issued on 16.08.2011. A perusal of the statement of charges indicates the following acts of omission and commission:

"1. That he is responsible for his share @ 32.5% of the less gain of 14.56 qtls. wheat valuing Rs.15726/-, noticed in the dispatches of 36250 bags of wheat Rabi-2009 in 50 Kg. packing with a book weight of 17625.00 qtls. made during the period October, 2008 to September, 2009, which comes to 4.73 qtls, valuing Rs. 5111/- @ Rs. 1080/- per qtl. (MSP for the year 2009).

2. That he is responsible for his share @ 32.5% of the less gain of 1439.00 qtls. wheat valuing Rs. 1554120/-, noticed in the dispatches of 869388 bags of wheat Rabi-2009 in 50Kg. packing with a book weight of 433326.42 qtls, made during the period October, 2009 to September,



2010, which comes to 467.68 qtls. valuing Rs.505089/- @ Rs.1080/- per qtl. (MSP for the year 2009).

3. That he is also responsible for the interest loss of Rs. 682/- on Rs. 5111/- @ 8% p.a. with effect from 1.10.2009 to 31.5.2011 and Rs. 26938/- on Rs. 505089/- @ 8% p.a. w.e.f. 1.10.2010 to 31.5.2011 totaling a sum of Rs.27620/-, caused to Hafed on account of less gain observed in the dispatches of wheat made during the period from 1.10.2008 to 30.9.2009 and 1.10.2009 to 30.9.2010."

9. The issue regarding making a recovery on account of moisture gain is no longer *res integra*. A Coordinate Bench of this court in **CWP No.11041 of 2001 Haryana Food and Supplies Field Staff Association and others vs. State of Haryana** observed as under, decided on 20.01.2015 observed as under:

"Both these writ petitions challenge the credibility of certain storage norms which were introduced at warehouses where wheat stocks were stored and making liable its employees for sums depending upon the moisture content that were found in the stocks. The cases came up from both the States of Punjab and Haryana and they have been considered through the decision dealt with by this Court in CWP No. 3230 of 1993 in Punjab Ware House Field Employees Union Patiala and other. The Court has held that the norms themselves cannot be a matter for intervention by the Court since there were issues brought on assimilation of technical facts over which the Court cannot exercise any judicial review but all the same, found that there could be no manner by which the employees posted at the storage houses could be made accountable for maintaining particular moisture content. Even while not interfering with the changed norms, the Court found that demand notices issued against the employees was not justified. The court by its judgment dated 20.06.1994 also held that the Corporation shall not preclude from taking the appropriate measures for amendment of the Punjab Warehousing Rules, but declared illegal the demand made against the employees for alleged "less storage gain". This decision was applied later to a case coming from the State of Haryanain CWP No. 12950 of 1999, Haryana Warehouse Corporation Vs. State of Haryana. The Division Bench referred to the decision in CWP No. 3239 of 1993 and disposed of the writ petition on the same lines, giving liberty to the Haryana Warehousing Corporation to take appropriate action by way of amendment to the Rules and in accordance with law. It appears that the Haryana Government took the matter further in appeal to the



Hon'ble Supreme Court in CWP No.1644 of 2001 but the Hon'ble Supreme Court dismissed it holding that the judgment rendered in CWP No. 3239 of 1993 had attained finality, there having been no appeal by the State of Punjab and the principle laid down in the said judgment would also govern the issues which had been brought by the Haryana Corporation.

In the light of the decisions, the demand notices issued against the petitioner would stand quashed. There is no requirement for the revised norms (annexures P7 to P10) to be quashed and no intervention is called for, for the same reasoning as adopted in the judgment referred to above. The writ petition is disposed of on the above terms."

10. Against the said judgment, **LPA No.1272 of 2015** filed by the State of Haryana was dismissed by this Court on 10.09.2015. The Division Bench observed that the appellants had proposed an amendment in Rule 28 of the 1958 Rules but it had not been carried out, thereby accepting the Division Bench decision. In view of the above, no ground to interfere was found.

"The State of Haryana and its officers have filed the instant intra-court appeal under Clause X of the Letters Patent against the order dated 20.01.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 11041 of 2001) filed by the Haryana Food & Supplies Field Staff Association and its members (respondents herein) was allowed and the demand notices (Annexure P-17) issued against the members of the respondent No.1 Association on account of loss of weight in storage, were quashed.

The aforesaid impugned order was passed by the learned Single Judge in view of the earlier decision of Division Bench of this court in CWP No. 12950 of 1999, Haryana Warehouse Corporation Versus State of Haryana, decided on 14.09.2000, which was given on the basis of another decision of this Court in CWP No. 3230 of 1993, Punjab Warehousing Field Employees Union Patiala and others Versus State of Punjab and others, decided on 20.07.1994, and the said decision was upheld by the Hon'ble Apex Court in Civil Appeal No. 1644 of 2001. It was held that under the Punjab Warehousing Rules, 1958 (hereinafter referred to as '1958 Rules') which are also applicable to the State of Haryana, there is no provision to recover the loss of shortage from the employees.

In the grounds of appeal, it has been stated that the appellants have already proposed an amendment in Rule 28 of 1958 Rules by



adding sub rule (2) thereto, but till date the said amendment has not been carried out. Thus, by proposing the aforesaid amendment, in our opinion, the appellants have accepted the Division Bench decision of this court in CWP No. 12950 of 1999 (supra).

In view of the above, we do not find any ground to interfere with the impugned order passed by the learned Single Judge, based on the judgment rendered in CWP No. 3230 of 1993 (supra), which has been affirmed by the Apex Court.”

11. Similar observations were made by this Court in **CWP No.4667 of 2016** titled ***Devat Ram vs. Managing Director, The Haryana State Federation of Consumer's Cooperative Wholesale Stores Ltd. and another***, wherein the chargesheet, inquiry report, show cause notice, and punishment order were quashed, and the respondents were directed to release retiral benefits with 6% interest per annum.

"The petitioner is seeking quashing of the chargesheet dated 03.08.2015 (Annexure P-1) issued by respondent No. 1 containing allegation of causing loss as having failed to gain weight in stock and has given less gain in delivery to FCI ordering recovery of 70%.

The petitioner had been in the service of respondent-Confed from 14.03.1980 and retired as a Clerk on 30.11.2013 on attaining the age of superannuation. While working as Clerk in Confed, he was to perform duties of Incharge of Chander Kalan Mandi (Fatehabad) during the season 2011-12 and during this period of Rabi season 2011, various crops of wheat were stocks and deliveries were made to various agencies including Food Corporation of India (FCI). During this season, total purchase of 115432 bags of 50 Kg each of wheat ie. total 57716 quintal was made. The chargesheet (Annexure P-1) was issued to the petitioner on 03.08.2015. A perusal of the chargesheet shows that the charge against the petitioner was that he had given less gain in the delivery of wheat stock to the FCI during the Rabi season 2011-2012 and this was against the norms fixed vide head office letter No. 5977-92 dated 27.07.1999. This chargesheet further reflects that decision had been taken by the Board of Administrator to effect recovery of less gain from the concerned employee and in this regard instructions have been issued vide letter dated 14.03.2003.

After issuing statements alongwith chargesheet, all the allegations in details were given to the petitioner and after holding the enquiry, punishment order dated 12.09.2016 (Annexure R-5) was passed



whereby it was ordered that recovery of Rs.1,31,195/- will be made from the retiral dues of the petitioner.

Learned counsel for the petitioner has referred to a decision given by this Court in CWP-11041-2001 Haryana Food and Supplies Field Staff Association and others Vis. State of Haryana and others, decided on 20.01.2015 (Annexure P-13) whereby the demand notices issued to the petitioner on account of less gain, had been quashed. While allowing the said writ petition, reference was also made to a decision given in CWP- 3239-1993 in Punjab Warehousing Fields Employees Union, Patiala and others, decided on 20.06.1994, whereby it was held that employees posted in storage houses cannot be made accountable for maintaining particular moisture content and the demand notices issued against the employees were not justified. This judgment was again followed in CWP-12950-1990, disposed of on 14.09.2000 which is reproduced as under:-

"Counsel for the petitioners and respondents 4 and 5 are agreed that this case is squarely covered by the decision of this Court in civil writ petition No. 3239 of 1993 dated 20.06.1994. Therefore, this petition has to be disposed of in terms of the order passed in the above said civil writ petition, a copy of which has been produced as Annexure P-22. But the learned counsel for the 5th respondent states that certain amendments have been proposed in the regulation, but these amendments have not so far been issued and have not come into force. Therefore, we dispose of this writ petition in terms of the order in CWP 3239 of 1993 dated 20.06.1994 subject to the right of the 5th respondent to take action in accordance with law, if and when the regulation is amended. Consequently, annexures P-3 and P-16 are quashed."

The judgment of CWP-12950-1999 has also been followed by this Court in CWP-7284-2008 Ravel Singh V/s. State of Haryana and others, decided on 16.04.2009 (Annexure P-14).

Learned counsel for the respondents is not able to show that the judgments of CWP-11041-2001 (Annexure P-13) and CWP-7284-2008 (Annexure P-14) were ever modified/set aside in subsequent appeals.

Keeping in view that these judgments have attained finality and instructions dated 27.07.1999 cannot be made basis for issuing chargesheet (Annexure P-1) to the petitioner as has been done in the present case, the writ petition deserves to be allowed and the chargesheet dated 03.08.2015 (Annexure P-1), inquiry report dated 07.12.2015 (Annexure R-3), show cause notice dated 21.03.2016 (Annexure R-4) and the punishment order dated 12.09.2016 (Annexure R-5) are being quashed. The respondents are directed to



release the retiral benefits of the petitioner alongwith 6% interest per annum from the date they due to the petitioner within a period of three months from the date of receipt of certified copy of this order."

12. Moreover, the petitioner retired on 31.05.2011 whereas the show cause notice was issued under Rule 19.2(g) of the Rules, 1988 on 16.08.2011 and a punishment order Annexure P-10 was passed on 19.07.2013. Relevant provisions of the Rules of 1988 are reproduced as under:-

"4. Definition:

XXX

XXX

XXX

***Employee** means a person appointed on regular basis in accordance with the provisions of these rules but does not include persons appointed on daily wages/ad hoc basis/consolidated pay.*

19. Penalties

1. Notwithstanding anything contained in any other regulation and without prejudice to such action to which an employee becomes liable under any other law or regulation for the time being in force, the following penalties may be imposed for good and sufficient reasons on any member of the service:

Minor Penalties:-

1. Censure

(b) Warning with a copy on ACR

(c) Withholding of increments without cumulative effect.

(d) Recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to Federation/Society /Societies by negligence or breach of orders.

Major Penalties:-

(e) Reduction to a lower category.

(f) Removal from service.

(g) Dismissal from service.

(h) Withholding of increments of pay with cumulative effect."

13. Furthermore, the petitioner retired on 31.05.2011, whereas the show cause notice was issued under Rule 19.2(g) of the Rules, 1988 on



16.08.2011 and a punishment order (Annexure P-10) was passed on 19.07.2013. The relevant provisions of the Rules of 1988 define "Employee" as a person appointed on a regular basis, and Rule 19 provides for penalties including censure, warning, withholding of increments, recovery from pay, reduction, removal, dismissal, etc. A perusal of the aforesaid provisions clearly reveals that penalties under Rule 19 of the Rules of 1988 can be enforced only on an "employee" who is in service. None of the punishments remotely suggest that they can be imposed after an employee has retired. The issue of whether departmental proceedings initiated during service can continue after retirement is no longer *res integra* in view of the judgment rendered by this Court in ***CWP-12845-2023 titled Mohinder Singh vs. State of Haryana and others.***

14. Additionally, a two-Judge Bench of the Hon'ble Supreme Court in ***Bhagirathi Jena vs. Board of Directors, OSFC, (1999) 3 SCC 666***, held that in the absence of provisions for conducting a disciplinary enquiry after retirement or for making a deduction from retiral benefits, the enquiry lapses and the employee is entitled to full retiral benefits on retirement.

15. Once the Rules, 1988 do not provide any specific rule that departmental proceedings can continue after retirement, the judgment of the Hon'ble Supreme Court in ***Chandra Singh (supra)*** is applicable to the case of the petitioner.

16. Keeping in view the above discussion, the present writ petition (CWP-27264-2013) is allowed. The impugned order of punishment dated 19.07.2013 (Annexure P-10) is set aside. The respondent-Federation is directed to release the amount withheld from the retiral dues of the petitioner within three months along with interest @ 6% per annum from the date it fell due till the date of actual realization.

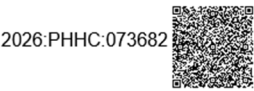


17. In **CWP No.15810 of 2015**, the prayer is for quashing of order dated 23.06.2015 (Annexure P-9) whereby the representation of the petitioner was dismissed, and for a direction to the respondents to release the withheld payment of performance award along with interest to the petitioner.

18. Learned counsel for the petitioner contends that the impugned order dated 23.06.2015 (Annexure P-9) was passed despite the fact that the petitioner was only awarded a minor punishment, which creates no embargo to withhold the payment of performance award for the years 2009-2010, 2010-2011, 2011-2012. He submits that only an employee who has been awarded a major penalty in the last 10 years or a minor penalty during the relevant year is ineligible, but during the years in question, no minor penalty was imposed upon him. The petitioner approached this Court by filing **CWP No.3787 of 2015**, which was disposed of on 02.03.2015 with a direction to consider his claim by passing a speaking order. In compliance, respondent No.2 dismissed the representation on the ground that the chargesheet dated 16.08.2011 was pending against the petitioner.

19. Learned counsel for the petitioner submits that since **CWP No.27264 of 2013** filed by the petitioner has been allowed and the chargesheet dated 16.08.2011 and the subsequent punishment order dated 19.07.2013 have been set aside, the petitioner is entitled to payment of performance award, as the grounds on which the impugned order dated 23.06.2015 (Annexure P-9) was passed no longer exist.

20. Learned counsel for the respondents could not controvert the fact that once the show cause notice dated 16.08.2011 and the punishment order (Annexure P-10) have been set aside by this Court, the petitioner would be



entitled to the performance award for the years 2009-2010, 2010-2011, 2011-2012.

21. In view of the above discussion, **CWP No.15810 of 2015** is also allowed. The petitioner is held entitled to payment of performance award for the years 2009-2010, 2010-2011, 2011-2012. Consequently, the respondents are directed to release the same along with interest @ 6% per annum within a period of three months from the date it fell due till the date of actual realization.

22. Both petitions stand allowed in the above terms.

May 11, 2026
ps

(HARPREET SINGH BRAR)
JUDGE

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