

101

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3377-2015

Decided on: 23.03.2026

MAHA SINGH

...PETITIONER

VERSUS

STATE OF HARYANA AND ORS.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sushil Jain, Advocate for the petitioner.

Mr. Deepak Balyan, Addl. AG Haryana

SANDEEP MOUDGIL, J

Prayer

1. The jurisdiction of this court has been invoked under articles 226/227 of the Constitution of India for quashing the impugned order dated 29.05.2013 (P-15) whereby a penalty of Rs. 3,42,032/- has been imposed on the petitioner and order dated 22.08.2014 (P-17) whereby appeal has been dismissed. With a further direction to the respondents to refund amount of Rs. 3,42,032/- which was illegally deducted from the retiral benefits of the petitioner with an interest of 18% per annum.

Brief Facts

2. The petitioner was appointed as Inspector on 22.06.1984, promoted as AFSO on 04.11.2010, and retired on 30.04.2012 upon attaining superannuation. In April 1996, while posted at Julana (District Jind), the petitioner was engaged in wheat procurement work from 01.04.1996 to

21.04.1996 under directions issued by the Food Corporation of India. During the said period, due to administrative directions relating to a political rally, procured wheat stocks were shifted and adjusted at different plinths due to lack of labour and logistical constraints.

3. On 21.04.1996, in view of compliants against the petitioner, procurement charge was withdrawn from him and he was placed under suspension on 22.04.1996. Another official was assigned the work thereafter. The petitioner was reinstated on 21.06.1996, and the suspension period from 22.04.1996 to 20.06.1996 was later treated as duty for all purposes.

4. No disciplinary proceedings were initiated against the petitioner for about 16 years. However, shortly before retirement, a charge sheet dated 23.02.2012 was issued under Rule 8 of the Haryana Civil Services (Punishment & Appeal) Rules, 1987. The petitioner repeatedly requested inspection of relevant records (1996–97) to file a reply to the charge sheet, but the same were not supplied despite multiple representations and directions from higher authorities.

5. Without providing the requested documents, the respondents passed an order dated 29.05.2013 (P-15) imposing recovery of Rs. 3,42,032/- (43% of alleged loss). The petitioner filed an appeal, which was dismissed on 22.08.2014 (P-17) by a non-speaking order without proper consideration of facts.

6. Hence, this petition.

Contentions

On behalf of petitioner

7. Learned counsel for the petitioner contends that the impugned

recovery and disciplinary proceedings are vitiated by inordinate and unexplained delay of about 16 years, as the alleged incident pertains to the year 1996 whereas the charge sheet was issued only on 23.02.2012, just prior to retirement of the petitioner. Such delay has caused serious prejudice to the petitioner and renders the proceedings arbitrary and unsustainable in law.

8. It is further contended that despite repeated requests, the petitioner was not supplied relevant records/documents pertaining to the year 1996–97, which were essential for submitting an effective reply to the charge sheet. Proceeding with the inquiry and passing the recovery order without supplying documents amounts to gross violation of principles of natural justice.

9. Learned counsel submits that the petitioner had no control over transportation and labour arrangements, and the alleged delay in lifting wheat was due to non-cooperation of truck unions and administrative constraints, which were beyond the petitioner's control. It is argued that the petitioner was wrongly held liable for alleged loss, despite the fact that procurement work was taken away from him on 21.04.1996 and thereafter handled by another officer, thereby breaking the chain of responsibility. The impugned order dated 29.05.2013 and appellate order dated 22.08.2014 are assailed as non-speaking, arbitrary and without reasons, as they do not deal with the petitioner's defence or material facts.

10. Lastly, it is further contended that withholding of retiral benefits and effecting recovery without proper adjudication is illegal, and the petitioner is entitled to refund of recovered amount along with interest.

On behalf of Respondents:

11. Learned counsel for the respondents submits that the petitioner was

responsible for failure to ensure timely transportation of procured wheat to FCI, resulting in financial loss to the department, for which recovery has been rightly ordered as per rules. It is contended that the petitioner, being P.R. Incharge, was duty-bound to ensure proper dispatch of wheat under local delivery purchase, but instead allowed stock to remain stored, causing COC (cost of carry) loss quantified at Rs. 7,95,424/-.

12. The respondents argue that the disciplinary proceedings were conducted in accordance with the Haryana Civil Services (Punishment & Appeal) Rules, 1987, and the petitioner was afforded adequate opportunity of hearing before passing the recovery order.

13. It is further submitted that since departmental proceedings were pending at the time of retirement, the respondents were justified in withholding retiral benefits and making recovery in terms of applicable service rules, including Rule 9.15 of Punjab CSR.

14. Learned counsel contends that the petitioner has suppressed material facts and has not approached the Court with clean hands, as he failed to disclose his role and responsibility in causing loss to the department.

15. It is also argued that the appellate authority has duly considered the matter and dismissed the appeal, and therefore, no interference is warranted in exercise of writ jurisdiction.

Analysis

16. Upon an anxious and careful consideration of the entire record, this Court finds that the impugned action of the respondents cannot be sustained in the eyes of law, not merely on account of delay, but on far more fundamental infirmities which strike at the root of the disciplinary process and the

consequential recovery.

17. At the outset, what fundamentally weakens the respondents' case is that the circumstances leading to the alleged loss were not within the exclusive control of the petitioner. The contemporaneous record unequivocally demonstrates that transportation of wheat was severely disrupted due to external and systemic impediments, including non-cooperation of the truck union, labour unrest at FCI godowns, illegal demands by labourers, and consequential delays in unloading. These were supervening constraints beyond the petitioner's authority and operational domain.

18. The record provides that the petitioner duly informed the respondent authorities that he stood suspended on 22.04.1996 and till that date he never received any letter of Mandi linkage and was unable to dispatch wheat to the further station. The permission to store the wheat on the Open Plinth was received from DFSC Jind himself, after the Deputy Commissioner ordered to lift all the wheat from the Mandi to avoid blocking of the Mandi.

19. It is a settled principle that liability cannot be fastened for consequences arising out of factors beyond one's control and culpability must rest on demonstrable negligence or intentional wrongdoing, and not on mere occurrence of loss. In the landmark decision of ***Seksaria Cotton Mills Ltd. v. State of Bombay 1953 INSC 31***, the Court drew a clear distinction between innocent error and culpable misconduct, holding that mere carelessness or inadvertent mistake, absent bad faith, cannot sustain penal consequences, while observing that,

24. We would like to add that in any event, even it ultra-technical

notions regarding the concept of possession were to be incorporated into the case, it would be wrong to say that there had been anything beyond a technical and unintentional breach of the law. The facts are truly and accurately given according to the popular and natural meaning of the words used; nothing was hidden. The goods did reach the quota-holder in the end, or rather his proper agent, and we cannot see what anyone could stand to gain in an unauthorised way over the very natural mistake which occurred owing to what seems to have been a time-lag in the consequences of a change of agency. So, even if here was a technical breach of the law, was not one which called for the severe strictures which are to be found in the trial Court's judgment and certainly not for the savage sentences which the learned Magistrate imposed. In the High Court also we feel a nominal fine would have met the ends of justice even on the view the learned Judges took of the law.

In the aforementioned backdrop only, it was held :

"In a penal statute of this kind it is our duty to interpret words of ambiguous meaning in a broad and liberal sense so that they will not become traps for honest, unlearned (in the law) and unwary men. If there is honest and substantial compliance with an array of puzzling directions, that should be enough even if on some hypercritical view of the law other ingenious meanings can be devised."

20. Thus, the attempt to impose liability on the petitioner effectively converts administrative accountability into a regime of strict liability, which is impermissible in law. In the present case, the alleged loss is directly traceable to external disruptions and systemic failures. Consequently, the finding of guilt is not only factually untenable but also legally unsustainable.

21. Moreover, the inordinate and unexplained delay of nearly 16 years in initiating disciplinary proceedings strikes at the very root of the impugned

action. The alleged misconduct pertains to the year 1996, whereas the charge sheet under Rule 8 of the Haryana Civil Services (Punishment & Appeal) Rules, 1987 was issued only on 23.02.2012, i.e., at the verge of the petitioner's retirement. No satisfactory explanation has been furnished by the respondents to justify such an extraordinary lapse of time.

22. In *State of Madhya Pradesh v. Bani Singh 1990 (2) SLR 798*, the Supreme Court held that initiation of departmental proceedings after an inordinate and unexplained delay is impermissible in law, while observing that:

4. The appeal against the order dated 16-12-1987 has been filed on the ground that the Tribunal should not have quashed the proceedings merely on the ground of delay and laches and should have allowed the enquiry to go on to decide the matter on merits. We are unable to agree with this contention of the learned Counsel. The irregularities which were the subject-matter of the enquiry is said to have taken place between the years 1975-1977. It is not the case of the department that they were not aware of the said irregularities, if any and came to know it only in 1987. According to them even in April, 1977 there was doubt about the involvement of the officer in the said irregularities and the investigations were going on since then. If that is so, it is unreasonable to think that they would have taken more than 12 years to initiate the disciplinary proceedings as stated by the Tribunal. There is no satisfactory explanation for the inordinate delay in issuing the charge memo and we are also of the view that it will be unfair to permit the departmental enquiry to be proceeded with at this stage. In any case there are no grounds to interfere with the Tribunal's orders and accordingly we dismiss this appeal.

23. Likewise, in *P.V. Mahadevan v. MD, Tamil Nadu Housing Board*

2005 INSC 346, the Apex court emphatically observed that protracted disciplinary proceedings cause mental agony and hardship while holding that,

18. Under the circumstances, we are of the opinion that allowing the respondent to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the appellant. Keeping a higher Government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. The protracted disciplinary enquiry against a Government employee should, therefore, be avoided not only in the interests of the Government employee but in public interest and also in the interests of inspiring confidence in the minds of the Government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by the department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer.

24. Further, in ***State of Andhra Pradesh v. N. Radhakishan***, it was held that where delay is unexplained and results in prejudice to the employee, the proceedings are liable to be quashed. The Court underscored that the test is one of balancing, whether the delay has impaired the employee's ability to effectively defend himself, while observing that,

The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying

the proceedings. In considering whether delay has vitiated the disciplinary proceedings the Court has to consider the nature of charge, its complexity and on what account the delay has occurred. If the delay is unexplained prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much disciplinary authority is serious in pursuing the charges against its employee. It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be allowed to take its course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the Court is to balance these two diverse considerations.

25. In the present case, the prejudice is writ large. The delay is not merely procedural but has caused irretrievable prejudice, rendering the inquiry fundamentally unfair as the petitioner repeatedly representations for inspection and supply of records pertaining to the year 1996–97, were admittedly not furnished.

26. Even otherwise, reliance placed by the respondents on Rule 9.15 of the Punjab Civil Services Rules is misconceived. While the said provision permits withholding of retiral benefits where departmental proceedings are pending, it does not sanction the initiation of proceedings after an unreasonable and unexplained delay, nor does it cure the inherent illegality in such belated action. The rule cannot be invoked to legitimize proceedings which are otherwise vitiated in law.

27. Equally fatal is the admitted denial of reasonable opportunity to the petitioner. The record demonstrates that despite repeated representations, the petitioner was neither supplied the relevant documents nor permitted to inspect the original record forming the basis of the charge. This denial is not a mere procedural irregularity but a substantive violation of the principles of natural justice. The right to defend is rendered illusory if the material sought to be relied upon is not supplied. In the present case, the petitioner was effectively precluded from submitting any reply as the relevant records were not supplied to him by the respondents, as relevant records from 1996–97 were not traceable. Thus, the subsequent proceedings thus stand vitiated ab initio.

28. Moreover, the recovery has been effected from the retiral benefits of the petitioner, which are now recognized as a vested right and a form of property protected under Article 300A of the Constitution. Where the disciplinary proceedings themselves are vitiated on account of violation of natural justice and lack of evidence, any consequential recovery from such benefits becomes wholly untenable.

29. It also pertinent to note that there is also an inherent inconsistency in the stand of the respondents inasmuch as the period of suspension of the petitioner was subsequently treated as duty for all intents and purposes. This administrative determination militates against the later attempt to fasten serious financial liability upon the petitioner for the same set of facts, thereby exposing the arbitrariness of the impugned action.

Conclusion

30. Thus, on a cumulative consideration, this Court is constrained to hold that the impugned proceedings are vitiated rendering the entire action unsustainable. In such circumstances, the impugned order dated 29.05.2013 (P-15) as well as the appellate order dated 22.08.2014 (P-17) are hereby quashed.

31. The respondents are directed to refund the amount of Rs. 3,42,032/- recovered from the petitioner along with interest of 6% per annum. The retiral benefits of the petitioner shall be released in full, if not already released, within a period of 6 weeks.

32. Consequently, the writ petition is allowed.

33. Pending applications, if any, stand disposed of

(SANDEEP MOUDGIL)
JUDGE

23.03.2026

anuradha

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