212 **IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

CWP-21856-2021 (O&M)
Date of decision: 03.02.2026

MANGAT RAM ....Petitioner

Versus

PUNJAB STATE POWER CORPORATION LTD. AND OTHERS ....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Bansal, Advocate with
Mr. Sameer Kumar, Advocate and
Ms. Nishtha, Advocate
for the petitioner.

Mr. Kannan Malik, Advocate
for the respondents.

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HARPREET SINGH BRAR, J (Oral):

CM-4633-2025

1. The present application has been filed under Section 151 of CPC for placing on record the replication to the written statement on behalf of respondents.

2. In view of the grounds mentioned in the application, the same is allowed, as prayed for, subject to all just exceptions. Replication is ordered to be taken on record.

3. Registry is directed to place the same at an appropriate place in the paper book.

Main case

4. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *Certiorari* seeking for quashing of impugned order dated 28.09.2021 (Annexure P-8) whereby the petitioner was denied gratuity till conclusion

of disciplinary proceedings and, a writ of *Mandamus* directing the respondents to drop the disciplinary proceedings intiated against the petitioner, being totally contrary to the applicable provisions of Rule 2.2(b) of the Punjab Civil Services Rules, 1970, Vol.II and as per judgment titled as ***Baldhir Singh Vs. State of Punjab and others*** 2009 (1) RSJ 351, as quoted in the aforesaid impugned order itself. Further a prayer is made for issuance of a writ of *Mandamus* directing the respondents to make payment of complete Gratuity along with penal interest to the petitioner at the earliest.

5. Learned counsel for the petitioners *inter alia* contends that the petitioner retired on 30.04.2020. On the eve of his retirement, there was no pending charge sheet against the petitioner. The charge sheet dated 03.11.2020 was conveyed/handed over to the petitioner on 07.01.2021. Nothing, it refers to alleged misconduct pertaining to the year 2011, making the impugned speaking order dated 28.09.2021 (Annexure P-8) is unsustainable in the eyes of law.

6. On the other hand, learned counsel for respondents-Corporation submits that a show cause notice was issued on 12.08.2013.

7. Learned counsel for the petitioner refers to the impugned speaking order (Annexure P-8) and submits that it contains no mention of any show cause notice, rather it has been said that a letter No.7703 dated 12.08.2013 (Annexure P-3) has been sent to the petitioner, seeking clarification from him regarding the excess payment made to pensioners and employees. Further, on 13.03.2014, disciplinary action was proposed against the concerned official, responsible for making wrong payments to the employees/pensioners. Learned counsel for the petitioner further refers

to the reply filed by respondents and submits that in para 10, the respondents have taken a specific stand that admittedly the draft charge sheet was prepared on 18.10.2016, much before the date of retirement of the petitioner. However, the fact regarding issuance of charge sheet on 03.11.2020 after the retirement of the petitioner remain uncontroverted.

8. Learned counsel for the respondents submits that the reliance made by the petitioner to Rule 2.2(b) of the Punjab Civil Services Rules, 1970, Vol.II is totally misplaced as a show cause notice was issued to the petitioner on 12.08.2013. However, he could not controvert the fact that charge sheet was issued on 03.11.2020 with regards to misconduct pertaining to the year 2011 and 2012, whereas the petitioner retired on 30.04.2020. He further submits that the disciplinary proceeding have been concluded resulting in passing of punishment order against the petitioner. As such, the petitioner has an alternative remedy of filing a statutory appeal against the said punishment order.

9. I have heard learned counsel for the parties and perused the record with their able assistance. It transpires that nothing has been placed on record by the respondent-Corporation to demonstrate that the disciplinary proceeding were initiated against the petitioner prior to his retirement. In the impugned speaking order (Annexure P-8), a reference has been made to a letter dated 12.08.2013 (Annexure P-3) wherein clarification was sought from the petitioner regarding making excess payment to employees/pensioners. Further, it has been mentioned in the impugned speaking order (Annexure P-8) that on 13.03.2014, a disciplinary action was proposed against the concerned officials regarding making excess payment to the employees/pensioners. A perusal of para 10

of the written statement qua merits, filed on behalf of the respondents-Corporation, clearly indicates that the respondent-Corporation had prepared a draft charge sheet on 18.10.2016. However, it remains unexplained as to why the charge sheet was issued on 23.11.2020, after the retirement of the petitioner on 30.04.2020, with regard to an alleged misconduct from the years 2011 and 2012. The initiation of the departmental proceedings on alleged incidents from years 2011-2012 by issuing charge-sheet in the year 2020, after the petitioner's retirement, is totally contrary to the Rule 2.2(b) of the Punjab Civil Services Rules, 1970, Vol.II, which is reproduced as under:-

> *"Rule 2.2 (b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specific period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if in a departmental judicial proceedings, the pensioner is found guilty of grave misconduct or negligence, during his service including service rendered on re-employment after retirement.*
>
> *Provided that:-*
>
> *1) Such departmental proceedings, if instituted while the officer was in service whether before his retirement or during his re-employment shall after the final retirement of the officer, be deemed to be a proceeding under this article and shall be*

continued and concluded by the authority by which it was commenced in the same manner and as if the officer had continued in service.

2) Such departmental proceedings, if not instituted while the officer was in service whether before 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 an event which took place not more than four years before the institution of such proceedings; and

iii) shall be conducted by such authority and in 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 officer during his service.

3) No such judicial proceedings, if not instituted while the officer was in service whether before his retirement or during his employment, shall be instituted in respect of a cause of action which arose or an event which took place more than four years of such institution; and The Public Service Commission should be consulted before final orders are passed."

10. Furthermore, this Court in ***Vasdev Singh Vs. State of Punjab 2025(3) Law treated 2113*** and ***Baldhir Singh (supra)*** has categorically held that Rule 2.2(b) (supra) places a complete embargo on holding an inquiry against a retired employee for any event which has happened four years prior to

the institution of inquiry. In other words, in case a disciplinary proceedings is to be initiated against an employee after his retirement, it cannot be in respect of an event which had taken place more than four years prior to the date of the institution of inquiry. Admittedly, in the present case the petitioner retired on 30.04.2020 while the charge sheet was issued only on 03.11.2020 regarding an occurrence from the years 2011 and 2012. As such, the action of the respondent-Corporation is violative of Rule 2.2(b) (supra).

11. In view of the above, the present petition is allowed and the impugned order dated 28.09.2021 (Annexure P-8) is set aside. Further, the respondent-Corporation is directed to drop the disciplinary proceedings against the petitioner being totally contrary to the provisions of Rule 2.2(b) (supra) thereby vitiating the entire disciplinary proceedings. The respondents are also directed to make the payment of balance amount of gratuity along with interest 6% per annum in accordance with law within a period of three months. The interest on delay in releasing gratuity shall be calculated from two months from the date of retirement till its actual payment. Needful be done within a period of three months from the date of receipt of a certified copy of this order. Lastly, the respondents are directed to calculate the admissible retired benefits accrued to the petitioner dehors the order of the punishment passed during the pendency of present petition, strictly in terms of Rule 2.2(b) (supra).

(HARPREET SINGH BRAR)
JUDGE

03.02.2026
monika

1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No