



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127+303
(1)

LPA-1880-2024 (O&M)

PUNJAB STATE WAREHOUSING CORPORATION

...Appellant

Versus

P K KALIA

...Respondent

(2)

LPA-1881-2024 (O&M)

PUNJAB STATE WAREHOUSING CORPORATION

...Appellant

Versus

P K KALIA

...Respondent

1.	The date when the judgment is reserved	02.04.2026
2.	The date when the judgment is pronounced	21.04.2026
3.	The date when the judgment is uploaded on the website	22.04.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	—

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL
HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. D.V. Sharma, Senior Advocate with
Ms. Shivani Sharma, Advocate, for the appellant(s)
in both cases.

Mr. Akshay Jain, Advocate, for the respondent
in both cases.

SUVIR SEHGAL, J.

1. These Letters Patent Appeals have been filed challenging judgment dated 22.08.2023 passed by the learned Single Judge in CWP-26282-2016 and CWP-23839-2016, whereby two writ petitions preferred by

the respondent-writ petitioner were allowed, order dated **20.10.2016** dismissing him from service retrospectively with effect from **31.12.2009**, i.e. the date of his retirement, was quashed, and the appellant-Corporation was directed to release post-retiral benefits including pension and other admissible dues.

2. The relevant facts, in brief, are that the respondent, while serving as Warehouse Manager, was proceeded against departmentally on allegations of shortage of stock. A charge-sheet was issued on **17.12.2004** and an FIR No.13 dated **01.03.2005** was also registered under Sections **409, 420 and 120-B IPC** read with Section **13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988**. Respondent attained the age of superannuation and retired on **31.12.2009**, though the retirement order recorded that the same was subject to the outcome of pending disciplinary cases. Thereafter, he was sanctioned provisional pension. Respondent was convicted by the criminal Court vide judgment dated **30.10.2010**, against which a criminal appeal was preferred, which is pending adjudication before this Court. Vide order dated **17.09.2013**, a recovery of **Rs.1,43,688/-** came to be imposed in the departmental proceedings. Subsequently, by the order dated **20.10.2016**, the appellant-Corporation dismissed the respondent from service retrospectively with effect from the date of retirement.

3. Learned Single Judge examined Rule **2.2(b) and (c)** of the Punjab Civil Services Rules, Volume II, and came to the conclusion that after retirement, disciplinary matter could at best have pensionary

consequences, but respondent could not have been dismissed from service retrospectively. Learned Single Judge also held that the order of dismissal was vitiated as it was founded only on the factum of conviction, without consideration of the conduct which led to such conviction, as required in law. Learned Single Judge further found that in the absence of any specific rule authorizing continuation of disciplinary proceedings so as to impose such punishment after retirement, remand to disciplinary authority would be futile.

4. Assailing the said judgment, learned counsel for the appellant submits that once the respondent stood convicted on charges involving corruption and criminal breach of trust, Corporation was fully justified in passing the order of dismissal. It is argued that mere retirement could not operate as a shield against the consequences of grave misconduct, particularly when the criminal case related to acts committed during service. It is further contended that the learned Single Judge fell in error in holding that dismissal could not be ordered after retirement and in granting full retiral benefits.

5. Per contra, learned counsel appearing for the respondent supports the judgment under appeal and submits that the retrospective dismissal order was ex facie illegal, both because the respondent had already retired and because Rule 2.2(b) *ibid*, only enables withholding of pension or recovery from pension and not dismissal from service after superannuation. It is further argued that the impugned order dated **20.10.2016** did not record

any satisfaction regarding the conduct of the employee leading to conviction and was, therefore, unsustainable in view of the settled position of law. He has pointed out that appellant had filed a suit for recovery of penalty amount, which has been dismissed by the trial Court on 27.10.2025. A copy of the judgment has been placed on record by the counsel.

6. We have heard learned counsel for the parties and have gone through the record with their able assistance.

7. Factual position is undisputed. Respondent stood retired from service with effect from **31.12.2009**. The order of dismissal came to be passed much thereafter on **20.10.2016**, and that too with retrospective effect from the date of retirement itself. Once the jural relationship of employer and employee had ceased on account of superannuation, any action thereafter had necessarily to be traceable to a specific statutory provision. Learned Single Judge has rightly examined the matter in the context of Rule **2.2(b)** of the Punjab Civil Services Rules, Volume II. A plain reading of the said rule shows that what is reserved to the Government is the right of **withholding or withdrawing pension**, wholly or partly, and right of **recovery from pension** of pecuniary loss caused to the Government, if in departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence during service. The rule does not provide for dismissal from service after retirement.

8. Therefore, the conclusion drawn by the learned Single Judge that only pensionary consequences could follow, cannot be said to be

erroneous, rather it is firmly borne out from the text of Rule 2.2(b) *ibid*, which the learned Single Judge has reproduced and analyzed. It may be noticed that order dated **20.10.2016** refers to stoppage of provisional pension under Rule 2.2(b) and (c) *ibid*, which itself indicates that the governing field after retirement was pensionary regulation, not removal or dismissal from service.

9. We also find no fault with the further reasoning of the learned Single Judge that the dismissal order was legally unsustainable for want of consideration of the respondent's conduct leading to conviction. Order dated **20.10.2016**, as noticed by the learned Single Judge, was passed merely on the ground that respondent had been convicted. It is trite that conviction by itself does not automatically warrant dismissal. The disciplinary authority is required to apply its mind to the nature of conduct which led to conviction and to record reasons. The learned Single Judge correctly relied upon the law declared in **Union of India v. Tulsi Ram Patel, (1985) 3 SCC 398**, that the mandatory exercise of considering the conduct of the delinquent employee was missing.

10. Learned Single Judge also noticed that when the respondent was permitted to retire, the retirement order recorded that the retirement was subject to the outcome of pending **disciplinary cases**. It did not make the retirement subject to the outcome of the criminal case. This was an additional circumstance noticed by the learned Single Judge while testing the legality of the dismissal order. This view also does not suffer from

perversity or patent illegality.

11. We are equally in agreement with the learned Single Judge that remanding the matter would serve no useful legal purpose. Respondent had already superannuated on **31.12.2009**. The learned Single Judge further held, relying upon **Bhagirathi Jena v. Board of Directors, O.S.F.C. and Chandra Singh v. State of Rajasthan, 2003(3) SCT 694**, that in the absence of a specific provision permitting continuation of disciplinary proceedings for the purpose of inflicting such punishment after retirement, no such exercise could now be revived. Appellant has not been able to point out any rule, distinct from Rule 2.2(b) *ibid*, authorizing the passing of an order of dismissal from service against a retired employee. Once that is so, the direction to release admissible post-retiral benefits cannot be faulted with.

12. It also bears notice that the learned Single Judge has not foreclosed action strictly permissible in law under the relevant pension rules. What has been interdicted is the retrospective dismissal from service after retirement by an order which, in any case, did not satisfy the legal requirements. The judgment under appeal, therefore, strikes a correct balance between the rights of the retiree and the authority of the employer under the applicable statutory regime.

13. In intra Court appeal under the Letters Patent, interference is warranted only where the judgment under challenge is shown to be manifestly erroneous or legally untenable. We find no such infirmity in the

impugned judgment. The view taken by the learned Single Judge is a plausible and correct view on both facts and law.

14. Consequently, both the present Letters Patent Appeals are **dismissed**. Judgment dated **22.08.2023** passed by the learned Single Judge is affirmed.

15. Pending miscellaneous application(s), if any, shall also stand disposed of.

(**SUVIR SEHGAL**)
JUDGE

(**VIKAS SURI**)
JUDGE

April 21, 2026
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Whether speaking/reasoned	Yes/No.
Whether reportable	Yes/No