



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

CWP-26073-2024 (O&M)

Date of decision : 30.03.2026

Union of India and others

...Petitioners

Vs.

Naresh Sharma and another

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Ashish Chaudhary, Advocate
for the petitioners.

None for the respondents.

HARSIMRAN SINGH SETHI, J.(Oral)

1. In the present petition, the challenge is to the order dated 21.05.2019 (Annexure P-1) passed by the Tribunal by which direction was given to the petitioner(s) to release the retiral benefits for which the respondent was entitled for.

2. Learned counsel appearing on behalf of the petitioner(s) argued that the direction so given by the Tribunal vide order dated 21.05.2019 (Annexure P-1) is incorrect as, the respondent-Naresh Sharma was facing the judicial proceedings before the competent Court of law against the allegations alleged against him and therefore, the petitioner had due jurisdiction to withhold certain pensionary benefits admissible to respondent-employee which fact has been ignored by the Tribunal by passing the impugned order.

3. We have heard the learned counsel for the petitioner and have

gone through the record with his able assistance.

4. The only argument raised is that due to the pendency of the judicial proceedings initiated against him, at the time when the respondent retired, the petitioner had the jurisdiction to withhold certain pensionary benefits which aspect has been over looked by the Tribunal. The learned counsel for the petitioner was asked as to when the petitioner retired, the learned counsel submits that the petitioner was retired compulsorily on 22.02.2017. Further, the learned counsel for the petitioner was asked as to when, the charges were framed in the judicial proceedings. The learned counsel for the petitioner was very fair to submit that though the charge-sheet was filed on 31.03.2017 but he does not know when the charges were thereafter framed.

5. Keeping in view the said fact, it is clear that on the date when the respondent was compulsorily retired, there was no charges framed against him in the judicial proceedings, on the basis of which the retiral benefits were sought to be withheld. Rather, a perusal of impugned order reveals that the allegations alleged against respondent-employer, which he duly accepted before retirement, he was punished with “compulsory retirement”, and it is after that only that another proceeding was initiated against him for said charges. The question which arises is whether at time of retirement, can it be said that the proceedings against respondent were pending or not, so as to withhold the benefits admissible to him.

6. As per the settled principle of law settled by the Hon’ble Supreme Court of India in Civil Appeal Nos.3018-21 of 1987 Union of India vs. K.V. Jankiraman decided on 27.08.1991, the law settled is that the criminal proceedings can only be stated to be pending in case, the charges have been

framed. The relevant paragraph of the judgment is extracted below:-

“16. On the first question, viz., as to when for the purposes of the sealed cover procedure the disciplinary/criminal proceedings can be said to have commenced, the Full Bench of the Tribunal has held that it is only when a charge-memo in a disciplinary proceedings or a chargesheet in a criminal prosecution is issued to the employee that it can be said that the departmental proceedings/criminal prosecution is initiated against the employee. The sealed cover procedure is to be resorted to only after the charge-memo/charge-sheet is issued. The pendency of preliminary investigation prior to that stage will not be sufficient to enable the authorities to adopt the sealed cover procedure. We are in agreement with the Tribunal on this point. The contention advanced by the learned counsel for the appellant-authorities that when there are serious allegations and it takes time to collect necessary evidence to prepare and issue charge-memo/charge-sheet, it would not be in the interest of the purity of administration to reward the employee with a promotion, increment etc. does not impress us. The acceptance of this contention would result in injustice to the employees in many-cases. As has been the experience so far, the preliminary investigations take an inordinately long time and particularly when they are initiated at the instance of the interested persons, they are kept pending deliberately. Many times they never result in the issue of any charge-memo/chargesheet. If the allegations are serious and the authorities are keen in investigating them, ordinarily it should not take much time to collect the relevant evidence and finalise the charges. What is further, if the charges are that serious, the authorities have the power to suspend the employee under the relevant rules, and the suspension by itself permits a resort to the sealed cover procedure. The authorities thus are not without a remedy. It was then contended on behalf of the authorities that conclusions nos. 1 and 4 of the Full Bench of the Tribunal are inconsistent with each other. Those conclusions are as follows:

"(1) consideration for promotion, selection grade, crossing the efficiency bar or higher scale of pay cannot be withheld merely on the ground of pendency of a disciplinary or criminal proceedings against an official;

(1)

(2).....

(3).....

(4) *the sealed cover procedure can be resorted only after a charge memo is served on the concerned official or the charge sheet filed before the criminal court and not before.”*

7. In the present case, in February, 2017, when the respondent got retired, even the charge-sheet was not filed in the judicial proceedings, what to talk of framing of the charges against the respondent. Hence, as per the judgment in K.V. Jankiraman (supra), it could not be said that proceedings were pending against the respondent so as to give jurisdiction to the petitioner to withhold the pensionary benefits.

8. Keeping in view the said factual position, as well as the settled principle of law, the order passed by the Tribunal is not perverse either on facts or on law and need no interference.

9. Dismissed.

10. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

30.03.2026
vanita

Whether speaking/reasoned :	Yes
Whether Reportable :	No