253 (3 cases)+256

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. CWP-28757-2025
Date of decision: 12.01.2026

KARAMJIT SINGH ....Petitioner

Versus

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

2. CWP-25513-2025
Date of decision: 12.01.2026

SUKHMANDER SINGH AND ANOTHER ....Petitioners

Versus

PUNJAB STATE POWER CORPORATION LIMITED AND ANOTHER ....Respondents

3. CWP-27724-2025 (O&M)
Date of decision: 12.01.2026

SUKHMANDER SINGH ....Petitioner

Versus

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

4. COCP-5875-2025
Date of decision: 12.01.2026

SUKHMANDER SINGH ....Petitioner

Versus

AJOY KUMAR SINHA ....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Avtar S. Khinda, Advocate
for the petitioner in CWP-28757-2025.

Mr. Prateek Sodhi, Advocate

for the petitioner(s) in CWP-27724-2025,
CWP-25513-2025 & COCP-5872-205.

Mr. Arpan Sabharwal, Advocate
for respondent-PSPCL in CWP-27724-2025 &
CWP-25513-2025.

Mr. Chanchal K. Singla, Sr. Advocate with
Mr. Rahul Aryan, Advocate and
Ms. Ravinder Kaur, Advocate for respondent-PSPCL.

****

HARPREET SINGH BRAR, J (Oral):

1. This order of mine shall dispose of the above-mentioned writ petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from **CWP-28757-2025**.

2. 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 to quash the order dated 24.06.2025 (Annexure P-9) passed by respondent No.4, whereby the exemption granted to the petitioner from passing the computer typing test was cancelled. A further direction is sought to restrain the respondents from recovering any amount pursuant to the said impugned order.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner was appointed as a Daily Wager on 21.03.1995, his services were regularized, and he was promoted to the post of Lower Division Clerk (LDC) on 23.07.2012. The promotion was subject to the condition of passing a computer test within two years, in accordance with the respondents' instructions dated 24.03.2006 (Annexure P-1), which also provided that employees above 50 years of age shall be exempted from the typing test. The petitioner, having attained the age of 50 years, was granted

exemption from passing the test by respondent No.4 vide order dated 18.09.2013 (Annexure P-7). He further obtained a certificate in computer operation from a recognised institute on 27.06.2013 (Annexure P-6).

4. The petitioner retired on attaining superannuation on 30.11.2020 and was paid his retiral benefits, including DCRG (Annexure P-8). After a lapse of nearly five years from his retirement, respondent No.4, without issuing any show-cause notice or granting a hearing, passed the impugned order dated 24.06.2025, cancelling the exemption granted in 2013. The impugned order is stated to be arbitrary, violative of principles of natural justice, and contrary to the settled law as laid down by the Hon'ble Supreme Court and this Court.

5. *Per contra*, learned counsel for the respondents opposes the petition and submits that the petitioner's promotion was conditional upon clearing the computer test. He justifies the impugned cancellation order dated 24.06.2025 as a measure taken pursuant to a complaint received from another employee, and contends that any consequential recovery of amounts paid to the petitioner, premised on the now-cancelled exemption, would be justified. However, learned Counsel for the respondent could not controvert the fact that exemption was indeed granted to the petitioner and the petitioner retired from the same promoted post without any proceedings pending against him at the time of retirement.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. It transpires that the petitioner was granted an exemption following which after serving for a considerable period, he retired.

Subsequently, 5 years after his retirement, the exemption was retrospectively cancelled and an order of recovery was passed against him.

8. The law on the subject is no longer *res integra*. The Hon'ble Supreme Court in ***State of Punjab v. Rafiq Masih (2015) 4 SCC 334*** has laid down exhaustive guidelines regarding recovery from employees. Reliance is also placed on the judgements of the Hon'ble Supreme Court in ***Jagdish Prasad Singh v. State of Bihar 2024 AIR Supreme Court 3950*** and ***Thomas Daniel v. State of Kerala 2022 SCC OnLine SC 536***. It has been consistently held that recovery from retired employees, or those who are due to retire within one year, is impermissible. The Hon'ble Apex Court in ***Rafiq Masih (supra)*** observed that,

> *"12. … as a ready reference, we may summarise the following few situations,* ***wherein recoveries by the employers, would be impermissible in law:***
> ***(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).***
> ***(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.***
> *(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
> *(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*
> *(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."*

9. In the present case, the petitioner retired in 2020, and the impugned order seeking to cancel the exemption was passed nearly five years later, in 2025. Any attempt to recover amounts pursuant to such cancellation would squarely fall within the prohibited categories defined in ***Rafiq Masih's case (supra)***.

10. Further, a bare perusal of the Regulation 9 of the PSEB Ministerial Services (Class III) Regulations, 1985 which is reproduced as under, reveals that any ineligibility can be exempted by the secretary if the employee has completed the age of 50 years with a good record.

> *"Rule: 9: EXEMPTION*
> *a) The Secretary can exempt any employee for passing the Departmental Test stipulated under the Ministerial services. The consideration on the exemption will be taken in severe conditions keeping in view the following facts :-*
> ***i) The employee must have completed the age of 50 years***
> ***ii) The record of the employee becomes good and unblemished.***
> *iii) The employee must have completed at least 4 attempts.*
> *B) That after the exemption being granted to the employee, the any kind of ineligibility in the consideration case of his promotion will not left after this."*

11. Admittedly, the petitioner was promoted to the post of LDC in 2012 and was subsequently granted exemption under the Regulation 9 in the year 2013, following which he continued to serve in the said promoted post until 2020 until his retirement. The respondents extracted the work of LDC from the petitioner continuously for 7 years after the retirement. Given that the petitioner satisfied the eligibility criteria for exemption under the rules, and considering the respondents granted him the same and allowed him to work on the promoted post continuously for 7 years while drawing corresponding salary and increments, they cannot whimsically cancel it retrospectively. The employer, having accepted the benefit of his services throughout this extended period, cannot retrospectively cancel the exemption and enforce the condition of passing the test to justify recovery after retirement.

12. The impugned order dated 24.06.2025 is also vitiated by violation of principles of natural justice. It was passed without issuing any

notice or opportunity of hearing to the petitioner, who had already retired five years prior. Such an ex-post-facto cancellation, without affording the petitioner an hearing opportunity is arbitrary and unsustainable in terms of the judgement of the Hon'ble Supreme Court in ***M/s Daffodils Pharmaceuticals Ltd. v. State of Uttar Pradesh (2019) 12 JT 283***.

13. In view of the foregoing discussion, the impugned order dated 24.06.2025 (Annexure P-9) is hereby quashed. Further the order for reduction(Annexure P-8) in pension is also set aside.

14. Further, in CWP 27724-2025, the respondents accepted the Diploma Certificate of the petitioner issued to him in the year 2015 and extracted the work on the promoted post without any objection till the year 2022 and further till his retirement in the year 2025. After accepting the certification, extracting work and benefitting from the petitioner for a considerable amount of time, the respondent now cannot take a u-turn and ask for the test certificate from him, post retirement. Accordingly, the respondents cannot hold onto any retiral benefits accrued to the petitioner in lieu of his service.

15. Thus, the respondents are directed to release the full pension and pensionary benefits of the petitioner, computed on the basis of his last drawn pay, within four weeks from the date of this order. Further, the respondents are restrained from withholding or effecting any recovery from the petitioner's pension or retiral benefits on the grounds of alleged non-compliance with the computer literacy requirements.

16. In CWP 25513-2025, the respondents accepted the BIT certificates issued to the petitioners in 2012, duly recorded them in the

service books, granted promotions and financial benefits based on those qualifications, and extracted work from the petitioners in promoted posts without any objection for over a decade, until their retirements in 2024. The petitioners' pay was fixed and pension computed on the basis of their last drawn salary, which reflected these long-sanctioned benefits. Having accepted the certificates, acting upon them, and benefitting from the petitioners' service in higher grades for a considerable period, the respondents now cannot retrospectively apply a subsequent circular dated 24.10.2024 to invalidate the certificates after retirement, reduce the pensionary benefits, and effect recoveries for alleged excess payments spanning more than twelve years.

17. Accordingly, all impugned recovery orders and the retrospective reduction of the petitioners' pension are quashed. The respondents are directed to restore the petitioners' pay fixation as per their last drawn basic pay and recompute and release their full pensionary benefits accordingly. Further, the respondents are restrained from giving retrospective effect to the Circular dated 24.10.2024 (Annexure P-11) insofar as it seeks to invalidate the petitioners' BIT certificates.

18. The respondents are also directed not to recover any amount from any of the petitioners. If any amount has already been recovered, the same shall be refunded to the petitioners with interest at the rate of 6% per annum from the date of recovery till the date of its actual realization.

19. Accordingly, all the three writ petitions i.e. CWP-28757-2025, CWP-25513-2025 and CWP-27724-2025 are disposed of in the above terms. No order as to costs.

20. In view of the above, COCP-5875-2025 is hereby disposed of being infructuous.

21. Pending application(s), if any, shall stand disposed of.

22. A photocopy of this order be placed on files of connected cases.

(HARPREET SINGH BRAR)
JUDGE

12.01.2026
monika

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