



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

201(2)

Decided on : 29.09.2025

**201(1) CM-9096-CWP-2024 in/and
CWP-20603-2023 (O&M)**

STATE OF PUNJAB

. .Petitioner

Versus

SUKHJIT SINGH BAINS AND ANOTHER

. . . Respondent

**201(2) CWP-7776-2023 (O&M)
Decided on : 29.09.2025**

SUKHJIT SINGH BAINS

. .Petitioner

Versus

CENTRAL ADMINISTRATION TRIBUNAL AND OTHERS

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

PRESENT: Mr. Animesh Sharma, Additional Advocate General, Punjab
for the petitioner in CWP-20603-2023 and
for the respondents No. 3 & 4 in CWP-7776-2023.

Mr. Rakesh Sobti, Advocate
for the petitioner in CWP-7776-2023 and
for the respondent in CWP-20603-2023.

Mr. D. V. Sharma, Senior Advocate with
Mr. Narinder Sharma, Advocate
for respondent No. 1.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-9096-CWP-2024

The prayer in the present application filed by the



CWP-20603-2023 (O&M)
and connected case

applicant/petitioner is for placing on record Annexures P-4 to P-8.

Keeping in view the averments mentioned in the application, the same is allowed. Copies of Annexures P-4 to P-8 are taken on record subject to all just exceptions.

CWP-20603-2023

1. In the present case, the challenge has been made to the order dated 02.02.2023 (Annexure P-1) passed by respondent No. 2- Central Administrative Tribunal, Chandigarh Bench (herein after referred to as 'the Tribunal'), whereby, the direction has been given to the petitioner-State to release the pensionary benefits admissible to the respondent after his retirement.

2. Learned counsel for the petitioner/state argues that though, the direction has been given by the Tribunal to release the pensionary benefits admissible to the respondents but the Tribunal has failed to notice that there was an FIR No. 02 dated 2002.2018 has been registered against the respondent under Sections 409, 420, 465, 467, 471, 120-B of the Indian Penal Code, 1860 and under the provisions of 13 (1) (d) and 13 (2) 88 of the PC Act by the Vigilance Bureau Phase-I, Punjab, wherein his name has also been cropped up hence, the direction given to release the pensionary benefits to in favour of the respondent is contrary to the rules governing the service according to which, in case the criminal case is pending against an employee certain retiral benefits can be stopped such as leave encashment and the gratuity.

3. Learned counsel for the petitioner/state further submits that keeping in view the Rule 6 of the All India Services (Death-Cum-Retirement



CWP-20603-2023 (O&M)
and connected case

Benefits) Rules, 1958 (herein after referred to as ‘the 1958 Rules’) once therein, the word judicial proceedings have been mentioned, even if, the charges have not been framed in the criminal proceedings initiated against an employee, the same will be covered under the definition of ‘judicial proceedings’ so as to give jurisdiction to the State to withhold the pensionary benefits. Hence, keeping in view the said fact, the order passed by the Tribunal dated 02.02.2023 (Annexure P-1) is incorrect and the same is liable to be set-aside.

4. Learned counsel for the respondent/employee on the other hand submits that after appreciating 1958 Rules which has been dealt with inextensive by the Tribunal, the benefit has been extended in favour of the respondent on the ground that the departmental proceedings which were pending against the respondent at the time when the respondent was retired, were dropped by the petitioner/state themselves and with regard to the criminal proceedings, the charges had not been framed yet and hence, as per the judgment passed by the Hon’ble Supreme Court of India in **Union of India Vs. K.V. Jankiraman, (1991) 4 SCC 109**, no criminal proceedings can be deemed to be pending till the charges are framed, therefore, the benefit extended in favour of the respondent by the Tribunal vide impugned order dated 02.02.2023 (Annexure P-1) is perfectly valid and legal and the writ petition filed by the petitioner/state is liable to be dismissed.

5. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

6. Certain facts have gone unrebutted.

7. It may be noticed that at the time when the respondent was



CWP-20603-2023 (O&M)
and connected case

retired from service on 28.02.2017, the respondent was facing only departmental proceedings which has taken as a ground to withhold certain retrial benefits admissible to the respondent officer. Thereafter, the departmental proceedings were dropped by the petitioner/state. By the time, the departmental proceedings were dropped, an FIR No. 02 dated 20.02.2018 (supra) has been registered by the Vigilance Bureau Phase-I, Punjab and during the investigation, name of the respondent also cropped up.

8. Now, the question which arises whether any FIR which was registered after the retirement of an employee, the retrial benefits can be withheld or not.

9. The law on the said issue is well settled. As per the judgment of the Hon'ble Supreme Court of India in **K.V. Jankiraman's case (supra)** wherein the pendency of the departmental proceedings as well as the criminal proceedings have been defined. As per the said judgment in **K.V. Jankiraman's case (supra)** it is only in case, the charge-sheet has been served, the departmental proceedings is stated to be pending and in case, in the criminal proceedings, the charges have been framed the criminal proceedings can be deemed to be pending. The relevant date to notice to same is to be the date on which the employee concerned is retired from service. The relevant paragraph of the said judgment is as under:-

“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



CWP-20603-2023 (O&M)
and connected case

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/charge-sheet. 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 finalize 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;

(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."

10. In the present case, when the judgment passed in **K.V. Jankiraman's case (supra)** is made applicable, it is conceded fact that on the date when the respondent was retired i.e. 28.02.2017, only the departmental proceedings were pending against the respondent which concededly have been dropped by the petitioner/state themselves and with regard to the



CWP-20603-2023 (O&M)
and connected case

criminal proceedings, the FIR (supra) got registered in the year 2018 i.e. much after the retirement of the respondent. Even, the sanctioned to prosecute the respondent was only given in the year 2024, hence, it cannot be said that on the date when the respondent was retired from service any criminal proceedings were deemed to be pending against the respondent especially when, even the FIR (supra) was registered which is being made the basis of stopping the release of pensionary benefits to be released after the retirement of respondent. Hence, the argument of the learned counsel for the petitioner that criminal proceedings were pending against the respondent at the time of his retirement from service cannot be accepted.

11. Further, it may also be noticed that the aforesaid FIR was not registered against the respondent rather, on the basis of certain disclosure statement, the respondent was nominated in the said FIR. Hence, once even in the FIR the name of the respondent does not appear and only the allegations have come against the respondent which are yet to be proved and the same were not existing even on the day when he retired i.e. 28.02.2017, it cannot be said that any criminal proceedings were pending against the respondent as on the date of retirement so as to withhold the pensionary benefits of the respondent.

12. The argument of learned counsel for the petitioner is that as per the Rule 6 of the 1958 Rules, the judicial proceedings pending against an employee on the date of his/her retirement can be taken into consideration to withhold certain retiral pensionary benefits admissible to the said employee.

13. For the sake of convenience Rule 6 of the 1958 Rules, is as under:-



CWP-20603-2023 (O&M)
and connected case

“Recovery from pension:- 6(1) The Central Government reserves to itself the right of withholding a pension or gratuity, or both, either in full or in part, whether permanently or for a specified period, and of ordering recovery from pension or gratuity of the whole or part of any pecuniary loss caused to the Central or a State Government, if the pensioner is found in a departmental or judicial proceedings to have been guilty of grave misconduct or to have caused pecuniary loss to the Central or a State Government by misconduct or negligence, during his service, including service rendered on re-employment after retirement: 21 Provided that no such order shall be passed without consulting the Union Public Service Commission: Provided further that-

(a) such departmental proceeding, if instituted while the pensioner was in service, whether before his retirement or during his re-employment, shall, after the final retirement of the pensioner, be deemed to be a proceeding under this sub-rule and shall be continued and concluded by the authority by which it was commenced in the same manner as if the pensioner had continued in service.

(b) such departmental proceeding, if not instituted while the pensioner was in service, whether before his retirement or during his re-employment;

(i) shall not be instituted save with the sanction of the Central Government ;



CWP-20603-2023 (O&M)
and connected case

(ii) shall 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 or places as the Central Government may direct and in accordance with the procedure applicable to proceeding on which an order of dismissal from service may be made;

(c) such judicial proceeding, if not instituted while the pensioner was in service whether before his retirement or during his re-employment, shall not be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution. Explanation:- For the purpose of this rule

(a) a departmental proceeding shall be deemed to be instituted when the charges framed against the pensioner are issued to him or, if he has been placed under suspension from an earlier date, on such date and

(b) a judicial proceeding shall be deemed to be instituted-

(i) In the case of criminal proceedings, on the date on which a complaint is made or a charge-sheet is submitted, to the criminal court; and

(ii) in the case of civil proceedings, on the date on which the plaint is presented or, as the case may be, an application is made to a civil court.

Note-1- Where a part of the pension is withheld or withdrawn the amount of such pension shall not be reduced below the



CWP-20603-2023 (O&M)
and connected case

amount of rupees three hundred and seventy five per mensem.

Note-2- Where Central Government decides not to withhold or withdraw pension but orders recovery of any pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of the member of the service.

6(2) Where any departmental or judicial proceeding is instituted under sub-rule (1), or where a departmental proceeding is continued under clause, (a) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, 23he shall be sanctioned by the Government which instituted such proceeding, during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto the date of retirement, or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension; but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and the issue of final orders thereon.

Provided that where disciplinary proceeding has been instituted against a member of the Service before his retirement from service under rule 10 of the All India Service (Discipline and



CWP-20603-2023 (O&M)
and connected case

Appeal) Rules, 1969, for imposing any of the penalties specified in clause (i), (ii) and (iv) of sub-rule 1 of rule 6 of the said rules and continuing such proceeding under sub-rule (1) of this rule after his retirement from service, the payment of gratuity or death-cum-retirement gratuity shall not be withheld.

6(3) Payment of provisional pension made under sub-rule (2) shall be adjusted against the final retirement benefits sanctioned to the pensioner upon conclusion of the aforesaid proceeding, but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period. ”

14. A bare perusal of the aforementioned rule shows that ‘judicial proceedings’ have been defined, by way of an explanation to mean departmental proceedings and criminal proceedings.

15. The departmental proceeding, though pending at the time when the respondent was retired were subsequently withdrawn by the petitioner/State. No criminal proceedings were pending against the respondent at the time of his retirement from service as the FIR was registered much after his retirement. Hence, withholding the pensionary benefits admissible to the respondent after his retirement on the ground that subsequent to retirement an FIR was registered wherein his name was cropped up, cannot be brought into operation with retrospective effect so as withhold the pensionary benefits admissible to the respondent. The perusal of



CWP-20603-2023 (O&M)
and connected case

reading of criminal/departmental proceedings is to be seen on the date of retirement. Any subsequent initiation of proceedings will not give jurisdiction to the employer to withhold the pensionary benefits.

16. The last argument, which has been raised by learned counsel for the petitioner/state is with regard to the Rule 6 (1) (a) of the 1958 Rules. It may be noticed that the said rule is only with regard to the departmental proceedings and not criminal proceedings and the same is clear from the wording of the rule itself, learned counsel for the petitioner has not been able to rebut the same. Hence, the argument of the learned counsel for the petitioner is contrary to the rule, and therefore, the same cannot be accepted.

17. Keeping in view the totality of the facts and circumstances, the Tribunal while adjudicating the matter has rightly appreciated all the facts, law and evidence available on record granting the relief to the respondent vide impugned order dated 02.02.2023 (Annexure P-1) and no perversity has been shown to this Court with the order impugned that the same is contrary to the facts, evidence on record or the settled principle of law.

18. No other argument has been raised,

19. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

20. Accordingly, the writ petition is dismissed.

CWP-7776-2023 (O&M)

1. As far as CWP No. 7776 of 2023, the challenge has been made to the same impugned order dated 02.02.2023 (Annexure P-1) passed by respondent No. 2- Central Administrative Tribunal, Chandigarh Bench (herein after referred to as 'the Tribunal'), whereby, though, the direction



CWP-20603-2023 (O&M)
and connected case

has been given to the respondent-State to release the withheld pensionary benefits in favour of the petitioner after his retirement, but the petitioner has not been granted the benefit of interest on the delayed payment of retiral benefits i.e. Death-cum-Retiral Gratuity & Leave Encashment which is causing prejudice to the petitioner.

2. It may be noticed that learned counsel for the respondent/State concedes the factum that the retiral benefits of the petitioner were withheld on the ground of the pending department proceedings. However, but the said departmental proceedings were subsequently dropped by the State itself. It means that the allegations levelled against the petitioner could not be proved. Hence, the withholding of the retiral benefits of the petitioner by the respondent/State was without justification, as the allegations of the State alleged against the employee could not be proved and denial of benefit of interest will cause prejudice to an employee against whom no findings of guilt has been recorded in CWP No. 20603 of 2023. Accordingly, , the petitioner is also entitled to the grant of interest on the delayed release of the pensionary benefits.

4. As per the judgment of the Single Bench of this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355**, wherein it has been held that where an amount belonging to an employee, has been retained and used by the respondents, upon the release of the said amount, on a later date, the interest has to be given. The relevant paragraph of J.S. Cheema's case (supra) is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else.



CWP-20603-2023 (O&M)
and connected case

It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

5. A bare perusal of the above would show that in case any benefits or amount belonging to an employee has been retained by the State and used, the employee concerned becomes entitled for the grant of interest on the delayed payment of the retrial benefits. That being so, the petitioner/employee is also entitled for the interest on the delayed release of the pensionary benefits to the petitioner.

6. Keeping in view the above, the impugned order dated 02.02.2023 (Annexure P-1) passed by the Tribunal is modified to the extent that on the delayed release of the pensionary benefits, the petitioner employee will also become entitled for the interest @ 6% per annum from the date the amount became due till the actual payments have been be released to him.

7. The present petition is disposed of in above terms.

8. Pending civil miscellaneous application, if any, shall also stand disposed of.

9. A photocopy of this order be placed on the file of connected



CWP-20603-2023 (O&M)
and connected case

case.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

29.09.2025

Riya

Whether speaking/reasoned: Yes/~~No~~

Whether Reportable: ~~Yes~~/No