CWP-9606-2022 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

S.No.242

CWP-9606-2022 (O&M)
Date of Decision:13.10.2025

Khairati Lal

… Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parveen Chauhan, Advocate,
for the petitioner.

Mr. Arun Singla, AAG, Haryana.

Mr. Padmakant Dwivedi, Advocate with
Ms. Ayushi, Advocate,
for respondents No.2 and 3.

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HARPREET SINGH BRAR, J. (Oral)

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has sought writ in the nature of mandamus for directing the respondents to release all the retiral benefits including gratuity, leave encashment, over draft expenses borne by the petitioner and all the other consequential benefits with interest @ 18% per annum.

2. Learned counsel for the petitioner, *inter alia,* contends that the petitioner retired as Store Keeper-cum-Mandi Inspector from the respondent-Corporation on 31.12.2006 as is evident from Annexure P-2. A

charge sheet was served upon the petitioner on 21.01.2009 (Annexure P-3) after the retirement of the petitioner for shortage of wheat stock during the crop year 2002-03 on the allegations that the petitioner has failed to maintain the health of the entire wheat stock and as such, the respondent-Corporation has suffered the loss of Rs.67,96,209/- only. The inquiry officer concluded the inquiry and gave its findings by holding that the charge of loss as quantified in the charge sheet to the extent of Rs.67 lakh is not proved against the petitioner and the charge against the petitioner stands partly proved and the loss needs to be re-verified and conveyed. On the same set of allegations and on same set of facts, the respondent-Corporation has filed the civil suit for recovery which was dismissed by the learned trial Court on 08.11.2013 and further the appeal filed by the respondent-Corporation was also dismissed as discernible from Annexure P-6 i.e. the judgment passed by the learned Additional District Judge, Sirsa on 07.12.2017. Similarly, vigilance case bearing No.667 dated 09.09.2008 registered against the petitioner at Police Station City Sirsa, District Sirsa under Sections 409, 420, 467, 468, 471, 120 BMA and Section 3 of Prevention of Corruption Act on the identical facts and circumstances was thoroughly investigated and ultimately, the cancellation report was submitted before the concerned Court on 06.10.2010 (Annexure P-5). As such, the petitioner has earned clean shit from the Vigilance Department and also the recovery suit on the same set of allegations filed by the respondent Corporation has been dismissed.

3. Learned counsel for the petitioner further assails the act and conduct of the respondent Corporation on the ground that issuance of charge sheet is violative of Rule 2.2 (b) of Civil Services Rules, Volume –II as the

charge sheet was issued after retirement of the petitioner on 21.01.2009 pertaining to the misconduct of the year 2002-03. As such, the impugned action of the respondent-Corporation in initiating disciplinary proceedings after retirement is not admissible and he relies upon the judgment in ***State of Bihar and others vs. Mohd. Idris Ansari 1995(3) SCR 754*** but the respondent-Corporation has not challenged the judgment rendered by the learned Additional District Judge, Sirsa by filing a regular second appeal before this Court and as such, the findings to the extent of exonerating the petitioner from any liability on the civil side has attained finality.

4. *Per contra*, Mr. Dwivedi submits that the punishing authority after serving the petitioner with a show cause, afforded him an opportunity of hearing and after recording dissent, has imposed punishment of recovery of Rs.67,96,209/- vide order dated 09.05.2022. The petitioner has not challenged order dated 09.05.2022.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner superannuated on 31.12.2006. However, at the time of his retirement, neither any charge sheet was pending nor charges were framed by a Court of competent jurisdiction trying the petitioner as accused. The charge sheet was only served on the petitioner on 21.01.2009 for alleged misconduct pertaining to the year 2002-03. The petitioner has filed the instant writ petition on 08.03.2022 and notice of motion was issued on 07.05.2022. It appears that the punishing authority has passed the order of punishment on 09.05.2022 i.e. after the filing of the present petition. There is no denial to the fact that the punishing authority

has taken almost 9 years in passing the said order of punishment whereas the enquiry officer had submitted his report on 03.10.2013.

6. A Division Bench of this Court in ***Sub Inspector Puran Chand (Retd.) vs. State of Punjab and others 2000(3) SCT 515*** while considering a similar issue, held as follows:

> *"7. Pointed attention of this Court has been drawn to clause (2) of the aforesaid rule 2.2(b). A careful perusal of the same would show that* ***in case a departmental proceeding is to be initiated against an employee after his retirement, it cannot be in respect of an event which took place more than four years from the date when the proceeding is initiated.*** *It is clear that the charge sheet was issued to the petitioner in the instant case on 24.11.1998, whereas the incident in question in respect to which he has been proceeded against relates to the year 1988 i.e. one decade prior to the issuance of the charge sheet. It is obvious that issuance of the aforesaid charge sheet is wholly unacceptable in law, as the same is clearly barred by the provision of clause (2) of rule 2.2(b) extracted above."*
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> (emphasis added)

7. Further still, as mentioned above, the petitioner retired in the year 2006 and was served a charge sheet in the year 2009 for an incident from the year 2002-2003. Curiously, the charge sheet was issued 06 years after the occurrence of the alleged incident, after the petitioner had retired from service. Indubitably, the issuance of charge sheet at such a subsequent stage is barred by Rule.2.2(b) of the Punjab Civil Services Rule, Volume II. It is a settled issue that departmental proceedings cannot be initiated against an employee after his retirement, with regards to an event which took place over four years from the date of initiation of said proceedings. Reliance in this regard may also be placed on a judgment rendered by this Court in ***Vasdev Singh vs. State of Punjab*** in ***CWP-23151-2025*** decided on 11.08.2025.

8. When delay taints disciplinary proceedings, they lose their character as an instrument of justice and turn into mechanisms of torment and unwarranted suffering. As such, disciplinary proceedings ought to adhere to established time lines or else it morphs into punishment that does not further the cause of justice. The respondent-Corporation has rendered a punishment order 13 years post initiation of disciplinary proceedings and has failed to provide any reasonable explanation to justify the same or attribute the delay to the petitioner. Moreover, the fact remains that the petitioner had approached this Court on 09.05.2022, prior to passing of the said punishment order. As such, since the conduct of the petitioner does not indicate any laxity, the delay alone would vitiate the disciplinary proceedings in its entirety

9.1. At this juncture, it may be profitable to refer to the judgment rendered by a two-Judge Bench of the Hon'ble Supreme Court in ***State of A.P. vs. N. Radhakishan (1998)4 SCC 154***, wherein, speaking through Justice D.P. Wadhwa, the following was observed:

> *"19. It is not possible to lay down any pre-determined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and circumstances in that case.* ***The essence of the matter is that the Court has to take into consideration all relevant factors and to balance and weigh them to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when delay is abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In considering whether delay has vitiated the disciplinary proceedings the Court has to consider the nature of***

charge, its complexity and on what account the delay has occurred. If the delay is unexplained, prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much disciplinary authority is serious in pursuing the charges against its employee. *It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be allowed to take its course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the Court is to balance these two diverse considerations."*

(emphasis added)

9.2. A two-Judge Bench of the Hon'ble Supreme Court in ***P.V. Mahadevan vs. M.D., Tamil Nadu Housing Board 2005(6) SCC 636*** made the following observations:

"18. Under the circumstances, we are of the opinion that allowing the respondent to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the appellant. Keeping a higher Government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. ***The protracted disciplinary enquiry against a Government employee should, therefore, be avoided not only in the interests of the Government employee but in public interest and also in the interests of inspiring confidence in the minds of the Government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings.*** *As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment.* ***For the mistakes committed by the department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer.*** *"*

(emphasis added)

9.3. Further, a two-Judge bench of the Hon'ble Supreme court in ***State of Punjab vs. Chaman Lal Goyal 1995(2) SCC 570,*** speaking through Justice B.P Jeevan Reddy, opined as follows:

> *"10. Now remains the question of delay. There is undoubtedly a delay of five and a half years in serving the charges. The question is whether the said delay warranted the quashing of charges in this case.* ***It is trite to say that such disciplinary proceeding must be conducted soon after the irregularities are committed or soon after discovering the irregularities. They cannot be initiated after lapse of considerable time. It would not be fair to the delinquent officer. Such delay also makes the task of proving the charges difficult and is thus not also in the interest of administration. Delayed initiation of proceedings is bound to give room for allegations of bias, mala fides and misuse of power. If the delay is too long and is unexplained, the court may well interfere and quash the charges.*** *But how long a delay is too long always depends upon the facts of the given case. Moreover,* ***if such delay is likely to cause prejudice to the delinquent officer in defending himself, the enquiry has to be interdicted.*** *Wherever such a plea is raised, the court has to weigh the factors appearing for and against the said plea and take a decision on the totality of circumstances. In other words, the court has to indulge in a process of balancing. Now, let us see what are the factors in favour of the respondent. ……"*
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> (emphasis added)

9.4. Reliance can also be placed on the judgment rendered by a two-Judge bench of the Hon'ble Supreme Court in ***Prem Nath Bali vs. Registrar, High Court of Delhi and another*** in ***Civil Appeal No. 958 of 2010*** decided on 16.12.2015, wherein, speaking through Justice Abhay Manohar Sapre, held as follows:

> *"31) Time and again, this Court has emphasized that it is the duty of the employer to ensure that the departmental inquiry initiated against the delinquent employee is concluded within the shortest possible time by taking priority measures. In cases where the delinquent is placed under suspension during the pendency of such inquiry then it becomes all the more imperative for the employer to ensure that the inquiry is concluded in the shortest possible time to avoid any inconvenience, loss and prejudice to the rights of the delinquent employee.*
> *32) As a matter of experience, we often notice that after completion of*

> *the inquiry, the issue involved therein does not come to an end because if the findings of the inquiry proceedings have gone against the delinquent employee, he invariably pursues the issue in Court to ventilate his grievance, which again consumes time for its final conclusion.*
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> *33) Keeping these factors in mind, we are of the considered opinion that* ***every employer (whether State or private) must make sincere endeavor to conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit.*** *Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude within reasonably extended period depending upon the cause and the nature of inquiry but not more than a year."*
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> (emphasis added)

10. Noting the harassment caused by delayed disciplinary proceedings, the States of Punjab and Haryana have issued various instructions, respectively, providing a timeline for completion of every step of the process. This Court is constrained to observe that in spite of the same, no change in approach has been discernible. Every employee facing disciplinary action has a legitimate right to have the proceedings concluded expeditiously. Undue prolongation of proceedings often causes mental agony, financial hardship, and social stigma, even before the charges are proven, which is a punishment in itself. Further, oftentimes, the accused-employee is placed under protracted suspension while the disciplinary proceedings continue at snail's pace. The provision for suspension in the applicable Rules cannot be understood to mean that the employee can be suspended indefinitely. If the allegations are such that the concerned department feels the need to continue an employee's suspension, such action ought to be made with due care and after providing reasons for the same. When delay is inordinate and remains unexplained by the department

concerned, it would be reasonable to presume prejudice against the accused-employee. Moreover, with the efflux of time, the employee may suffer loss of evidence on account of non-availability of witnesses and fading memory, materially altering his ability to effectively defend himself. Since unjustified prolonged delay unfairly tilts the balance in favor of the accusing authority, delay alone is a considerable ground to suffocate the proceedings.

11. Crucially, the employer must conduct such proceedings diligently and without any unnecessary delay. Protracted enquiries breed inefficiency, demoralization, and distrust in the system thereby defeating the very purpose of disciplinary mechanism established to ensure that principles of efficiency, integrity and accountability are upheld. A lack of seriousness in pursuing charges reflects poorly on the administration and may indicate malice or oblique motives. Thus, this Court cannot allow the employer to keep the sword of disciplinary action dangling over an employee indefinitely.

12. Any procedure which does not ensure the culmination of disciplinary proceedings within a reasonable dispatch, would fall foul of Article 21 of the Constitution of India. Timely determination of guilt or innocence of the accused employee is an integral and essential part of fundamental right to life and liberty enshrined in Article 21 of the Constitution of India. This Court witnesses multiple cases on a daily basis where the employees are aggrieved by whimsical timelines adopted by relevant authorities to conclude disciplinary proceedings initiated against them. In the present case itself, there was a delay of over a decade. As such, with an intention to safeguard the constitutional guarantees provided under

Articles 14 and 21 of the Constitution of India, the following directions are issued:

(i) The charge-sheet must be issued within a reasonable period.

(ii) The inquiry must be concluded within 6 months of issuance of the charge-sheet.

(iii) The Punishing Authority shall decide the matter within 3 months of receipt of the inquiry report.

(iv) The Appellate Authority shall dispose of the appeal preferred against decision of the Punishing Authority within 3 months of filing of such an appeal.

(v) Thus, the entire process of disciplinary action must conclude within 01 year at the most. Any unexplained or inordinate delay beyond this period shall vitiate the proceedings and invite an adverse inference against the disciplinary authority.

(vi) The Administrative Secretaries of the concerned departments as well as heads of relevant Boards and Corporations are also directed to conduct a quarterly review in order to ensure that the prescribed timeline is scrupulously followed and no disciplinary action is unjustly delayed.

13. In view of the above discussion, the present writ petition is allowed. The charge sheet dated 21.01.2009 (Annexure P-3) along with all consequential proceedings are hereby quashed. The respondent/competent authority is directed to release the all the retiral benefits including gratuity, leave encashment and any other consequential benefits accrued to the petitioner along with an interest of 7% per annum. The interest shall be calculated from the date it became due till the date of actual payment. The

needful be done within a period of three months of receiving a certified copy of this order.

14. Further, the Chief Secretaries for the States of Punjab and Haryana as well as Union Territory of Chandigarh are directed to issue necessary instructions for scrupulous compliance of the abovementioned directions, within a period of 06 weeks from the date of receipt of a certified copy of this order and submit a compliance report within 03 months.

15. A copy of this order also be supplied to learned State Counsel for the States of Punjab and Haryana as well as the Union Territory of Chandigarh for information and compliance.

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

(HARPREET SINGH BRAR)
JUDGE

October 13, 2025
Paritosh Kumar

Whether speaking/reasoned Yes/No
Whether reportable Yes/No