



CWP-6227-2024

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

256

CWP-6227-2024

Date of Decision: **September 17, 2025**

Shri Krishan

.....Petitioner

**VERSUS**

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present : Mr. V.P Malik, Advocate for the petitioner.

Mr. Arun Singla, AAG, Haryana.

Ms.Gehna Vaishnavi, Advocate for respondents No.2 and 3.  
(through V.C.)

Mr. Ish Puneet Singh, Advocate for respondent No.4.

\*\*\*\*

**HARPREET SINGH BRAR, J. (Oral)**

1. The present writ petition has been filed under Article 226/227 of the Constitution of India with a prayer for issuance of an appropriate writ, order or directions especially in the nature of certiorari for quashing/setting aside the impugned order dated 28.09.2021(Annexure P-25) and order dated 02.11.2021(Annexure P-26) to the extent of withholding Rs.4,18,734/- passed by respondent No.2.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was a regular employee of the respondent-Federation since 26.09.1983. He worked on different posts during his service tenure till attaining the age of superannuation on 30.04.2021. The retiral dues of the



CWP-6227-2024

petitioner were withheld on the ground that respondent No.4 has made a deduction of Rs.81,307/- from the bill generated by respondent No.2. The charge-sheet was issued against the petitioner vide memo No.531 dated 28.01.2021 and was filed on 11.05.2021. Admittedly, when the petitioner retired from the service there were no disciplinary or criminal proceedings pending against him. It is trite law that in the absence of any charge sheet or framing of charge, retiral dues of an employee cannot be withheld.

3. *Per contra*, learned counsel for respondents No.1 to 3 submits that while petitioner was working as a field inspector at Gohana. On 10.05.2002 wheat was loaded for its delivery in West-Bengal upon the instructions of Food Corporation of India, Gohana (hereinafter 'FCI'). The petitioner gave an undertaking on 10.05.2002 to the officials of respondent No.4-FCI confirming the quality and quantity of the loaded wheat without seeking any approval or intimation of the Centre Incharge and District Manager (Annexure R-1). Consequently, respondent No.4-FCI deducted an amount to the tune of Rs.81307/- on account of negligence and the loss caused to the respondent-Federation.

4. Learned counsel for respondent No.4-Federation submits that respondent No.4 is not a necessary party in the present case and they have only made deduction from the respondent-Corporation amounting to the tune of Rs.81,307/- on justifiable reasons.

5. Further, learned counsel for respondent No.4-Federation could not controvert the fact that the reported lapse had occurred in the year 2002 and deduction was ordered later on by respondent No.2 whereas, when the



CWP-6227-2024

petitioner retired in the year 2021, there was no charge sheet pending against him.

6. I have heard the learned counsel for the petitioner as well as the respondent(s) and gone through the case file with their able assistance.

7. The action of the respondent(s) in making the petitioner liable for any loss suffered in the year 2002 post his retirement is not sustainable in the eyes of law.

8. It is no longer *res integra* that in case a disciplinary or criminal proceedings are pending against an employee on the date of retirement, the employer would be well within its right to withhold the gratuity as well as the leave encashment. However, the Hon'ble Supreme Court in '*Union of India Vs. K.V. Jankiraman*' 1991 (3) SCT 317 has authoritatively laid down that the pending proceedings would mean that charge sheet is served in departmental proceedings or the charges have been framed in criminal proceedings by the competent Court of law on or before the date of retirement of an employee. The relevant paragraph of the judgment is reproduced 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 charge sheet 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*



CWP-6227-2024

*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 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.”*

9. Admittedly, at the time of retirement neither any charge sheet nor any criminal proceedings were pending before any Court of law against the petitioner. The respondent is not entitled to withhold the pensionary benefits of the petitioner. The case of the petitioner is further covered by the judgment rendered by this Court in CWP No.3493 of 1986 titled as ‘**L.R. Dhawan Vs. State of Haryana**’ and reiterated in CWP No.20687 of 2012 titled as ‘**Amarjit Singh Vs. Punjab state Civil Supplies Corporation Ltd.**’

10. In view of the discussion above, the present writ petition is allowed and the respondent(s)/competent authority is directed to release the remaining withheld retiral dues of the petitioner along with interest @ 6% per annum to be calculated from post two months after the date of retirement



CWP-6227-2024

till actual payment within a period of three months from the date of receipt of certified copy of this order.

11. Pending miscellaneous application(s), if any, shall also stands disposed of.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**September 17, 2025**

*P.C*

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No