

2025:PHHC:129911



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

CR-3803-2025

**Judgment Reserved on: 07.08.2025
Date of Decision : 19.09.2025**

VIJAY KUMAR

.....Petitioner

VERSUS

**PUNJAB STATE CIVIL SUPPLIES CORPORATION LTD. AND
ANR.**

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Ankush Singla, Advocate
For the petitioner.

Mr. R.S Kalra, Advocate
For the respondents.

HARPREET KAUR JEEWAN, J. (Oral)

1. The present petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 02.05.2025 (Annexure P-1), vide which the application filed by the defendants dated 02.12.2024 (Annexure P-3) under Order 7 Rule 11 CPC for rejection of the plaint was dismissed.

2. As per brief facts, the petitioner-defendant is a retired employee of PUNSUP/Plaintiff having retired from service on 31.10.2016. Before retirement, the petitioner was issued a chargesheet on 30.10.2015 in relation the shortage of crop for the year 2009-10. The proceedings in the chargesheet were not concluded till his retirement. The plaintiff/respondent

filed a civil suit for recovery of Rs.84,660/- against the petitioner/defendant (Annexure P-2). The application moved by the defendant/petitioner under Order 7 Rule 11 of the CPC was dismissed by the trial Court vide impugned order dated 02.05.2025.

3. Learned counsel for the petitioner submits that the suit filed by the respondent is time barred. The respondent/Department plaintiff was aware of the said alleged shortage in the year 2009 whereas, the suit for recovery has been filed in the year 2024. It is further contended that the respondent-Department had tried to take advantage of the order dated 30.09.2019 passed by this Court in CWP No.5254 of 2005 (Annexure P-5) however, the limitation would not extend as such, the suit filed by the respondent is not within limitation. The trial Court should have rejected the plaint accepting the application filed by the petitioner under Order 7 Rule 11 of the CPC.

4. On the other hand, learned counsel for the respondents contends that the petitioners along with other retired employees challenged the chargesheet issued to them by way of civil writ petition in this Court. Vide order dated 30.09.2019 (Annexure P-5) though, the writ court held that the withholding of the retiral benefits by the respondent-PUNSUP is illegal. However, it was held that PUNSUP has remedy to recover the losses. In such circumstances, the trial Court has rightly dismissed the application.

5. I have heard the learned counsel for the parties and perused the paper-book.

6. It is a settled principle of law that the application under Order 7 Rule 11 mandates the rejection of a plaint on various grounds including

where the suit appears from the statement in the plaint to be barred by any law. It is also well settled that at the time of deciding the application filed under Order 7 Rule 11 of the CPC, the Court is required to examine the pleadings of the plaint.

7. The trial Court while dismissing the application under Order 7 Rule 11 of the CPC rightly observed that for the purpose of deciding the application, only the averments made in the plaint are to be looked into. While making the following observations, the trial Court held that the question of limitation is mixed law of facts, which cannot be decided at this stage:-

“7. With the able assistance of Counsels for parties, it came into light that according to account statement of wheat stocks of crop years 2009-2010, less excess in central pool at PUNSUP Centre Rampura-I during the Crop Year 2009-10, as per the norms of the Plaintiff Corporation 284-23-000 qtls. was given less excess, total amounting to Rs.4,23,300/-. On the basis of the abovesaid loss statement charge sheet dated 30.10.2015 was issued and Enquiry Officer Sh. Arwinder Singh, IAS (RETD.) was appointed vide letter dated 32818-23 dated 28.02.2017. He presented his enquiry report which is being treated as fact finding report as per order dated 31.05.2019 passed by Hon’ble High Court of Punjab and Haryana in CWP-5254-2005. After hearing defendant the worthy MD of plaintiff corporation held defendant liable to extent to Rs.84,660/- vide order dated 24.07.2023 and reading the plaint in totality it is where the Cause of action arose. A fine perusal of plaint reveals that there was no breakage in the claim of events of inquiry and hence therefore cause of action never arose till 24.07.2023.

8. The contention of applicant/defendant that even if counted from the Charge sheet dated 30.10.2025, the suit is filed after more than 8 years and hence barred by law is not tenable. The case was instituted on 13.03.2024 which is well within the limitation.

9. Moreover, it is a settled position of law that question of limitation is a mixed question of law and fact, which cannot be decided at this stage, without perusing evidence to be led on record by both the parties in this suit. So, in these circumstances, it can be validly said that on the ground of limitation as prayed by applicant in this application, the plaint of this suit cannot be rejected.”

8. It is not disputed that the petitioner including other retired employees challenged the chargesheet issued to them after their retirement. While granting the relief that retiral benefits of the petitioners cannot be withheld, liberty was granted to the respondent-PUNSUP by observing that the respondents have a remedy to recover the amount of loss. In case at any subsequent given point of time, it is found so. The following observations by the writ court vide order dated 30.09.2019, require a reference here, which reads as under:-

“It is made clear that this order in no way restrains the respondent-PUNSUP to recover the amount from any employee, in case it is found in the fact finding enquiry that a particular employee has caused loss with the act of omission and commission due to which, the Corporation has suffered loss. The said recovery of the loss will only be done by filing an appropriate civil suit before the competent Court of law.”

9. In pursuance to the said observations, the fact finding enquiry is alleged to have been conducted and the recovery suit has been filed on the basis of the said fact finding enquiry report.

10. The respondent-plaintiff has taken a plea in the pleadings that keeping in view the liberty granted by this Court vide order dated 30.09.2019. The fact finding enquiry has been conducted and immediately thereafter, the recovery suit has been filed. The trial Court taking note of the said pleadings has only observed that the question of limitation is a mixed question of fact and law, which cannot be decided at this stage.

11. In view of the aforesaid facts and circumstances, when there is no decision by the trial Court on the question of limitation, this court cannot accept the plea of the petitioner that suit is liable to be dismissed on the

ground of limitation by invoking extra-ordinary powers of revision as such, no interference is called for to the findings arrived at by the trial Court.

12. Accordingly, the present revision petition is devoid of merits and the same stands dismissed.

13. Pending miscellaneous applications, if any, shall stand disposed of.

19-09-2025
Sapna Goyal

(HARPREET KAUR JEEWAN)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO