



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

207(2 cases)

Date of Decision: **September 25, 2025**

1.

CWP-11580-2017

Ashok Kumar

.....Petitioner

VERSUS

Punjab State Civil Supplies Corporation Limited and another

...Respondents

2.

CWP-12993-2017

Ashok Kumar

.....Petitioner

VERSUS

Punjab State Civil Supplies Corporation Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Amit Sharma, Advocate for the petitioner.

Mr. Aman Sharma, Advocate for the respondents.

HARPREET SINGH BRAR, J. (Oral)

1. This order of mine shall dispose of both the above-mentioned writ petitions.

2. The present writ petition bearing CWP-11580-2017 has been filed under Article 226/227 of the Constitution of India with the following prayers:-



- i) “For issuance of a writ, order or direction in the nature of *mandamus* directing the respondents to release all the retiral dues including gratuity, leave encashment and the salary for the period 01.04.2011 to 15.05.2011 with interest @ 18% per annum. from the date of its accrual till its realization and further directions be issued to the respondents to release the revised pay scale for the post of Inspector Grade-II w.e.f. 01.12.2011 with interest @ 18% p.a. from its accrual till its realization.
3. The writ petition bearing CWP-12993-2017 has been filed with the following prayers:-
- i) “For issuance of a writ, order or direction in the nature of *mandamus* for calling record of the impugned order dated 22.11.2016(Annexure P-8) passed by respondent No.1 and to set aside the same being illegal, besides granting all consequential benefits treating the period of suspension as duty period and to pay all necessary financial benefits including pay and allowances.
- ii) Further directing the respondents to release all the consequential financial by way of arrears with interest @ 18% per annum from the date of its accrual till its realization.”
4. Learned counsel for the petitioner *inter alia* contends in CWP-12993-2017, that in the departmental inquiry the petitioner was placed under



suspension w.e.f. 16.05.2011. The respondent-Corporation has served the charge sheet upon petitioner after putting him under suspension after a gap of 6 months i.e. on 02.11.2011. Thereafter, on 09.03.2012 the inquiry officer was appointed. He submitted his report on 18.10.2012, exonerating the petitioner. However, the Managing Director of the respondent-Corporation gave a dissenting note dated 15.01.2014. After keeping the petitioner under suspension for more than 3 ½ years, he was reinstated on 27.02.2015 and stood retired on 28.02.2015. Thereafter, the order of punishment was issued on 10.11.2015 vide which the suspension period w.e.f. 16.05.2011 to 27.02.2015 was ordered to be treated as leave of kind due. He further emphasized on the fact that petitioner was suspended on 16.05.2011 and the punishment order was passed after 4 ½ years. As such, on the ground of delay, the disciplinary proceedings stand vitiated. It is trite law that the disciplinary proceedings are required to be concluded within a reasonable despatch and relies upon the judgment of Hon'ble Supreme Court passed in ***Prem Nath Bali Versus Registrar, High Court of Delhi and another, 2015.*** The punishing authority has awarded a minor punishment of censure and at the same time, ordered the period of suspension to be considered as the leave of the kind due. It is settled law that pending inquiry cannot be converted into a mode of suspension even before culmination of the disciplinary proceedings. The petitioner is entitled to pay, during the suspension period, firstly on account of delay for which no fault can be fastened upon the petitioner in causing hurdles in the swift disposal of the disciplinary proceedings. Secondly, the petitioner was awarded a minor



punishment and was denied the pay during the period of suspension. The nominated period of suspension running into 3 ½ years is not justified in any manner.

5. Learned counsel for the petitioner further contends in CWP-11580-2017 that the claim of the petitioner is with regard to release of the retiral dues including gratuity, leave encashment. Admittedly the gratuity of the petitioner was released on 27.10.2017 only after filing of the writ petition. Leave encashment cannot be withheld in the absence of any legislative mandate and the leave encashment is to be treated as a part of the salary. He further submits that no interest has been paid on account of delay in releasing the gratuity.

6. On the other hand, learned counsel for the respondents-Corporation opposes the prayer of the petitioner and submits that the punishing authority has recorded his dissent while disagreeing with the finding that the inquiry officer has passed the well reasoned order. The petitioner has not challenged the order passed by punishing authority and has only challenged the order passed by the Appellate Court. However, could not controvert the fact that petitioner was suspended on 16.05.2011 and the punishment order was passed on 23.06.2015. He further submits that gratuity has already been released to the petitioner.

7. A Two Judge Bench of the Hon'ble Supreme court in ***State of Punjab v. Chaman Lal Goyal 1995(2) SCC 570*** Speaking through Justice B.P Jeevan Reddy observed that,



“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.”

(emphasis added)

8. A Two Judge Bench of the Hon’ble Supreme Court in ***Prem Nath Bali vs. Registrar, High Court of Delhi and Anr. 2015 CWP No. 958 of 2010*** while speaking through Justice Abhay Maohar Sapre, made the following observations,

“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.



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.*

(emphasis added)

9. Every delinquent employee has a legitimate right to have disciplinary proceedings concluded expeditiously. Undue prolongation causes mental agony, financial hardship, and social stigma, even before the charges are proven. This is considered a punishment in itself. When delay is abnormal and remains unexplained by the department, prejudice to the delinquent is presumed. The employee may suffer from loss of evidence, non-availability of witnesses, fading memory, and inability to defend effectively. While serious charges may warrant continuation, prolonged delay without justification tilts the balance in favor of quashing the proceedings.

10. The employer must conduct proceedings diligently and without unnecessary delay. Protracted enquiries defeat the very purpose of disciplinary mechanism, instead of ensuring efficiency, integrity, and accountability they breed inefficiency, demoralization, and distrust in the system. A lack of seriousness in pursuing charges reflects poorly on the administration and may indicate malice or oblique motives, the employer



cannot be permitted to keep the sword of disciplinary action dangling over an employee indefinitely.

11. In view of the above, both the writ petitions are allowed to the extent of treating the suspension period of the petitioner as duty period. Respondents/competent authority are directed to release all retiral dues including leave encashment and gratuity with interest @ 6% per annum on the delayed payment to be calculated after two months of retirement of petitioner. Needful be done within a period of three months from the date of receipt of certified copy of this order.

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

(HARPREET SINGH BRAR)
JUDGE

September 25, 2025
P.C

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No