

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

CWP-23151-2025

Date of decision: **11.08.2025**

Vasdev Singh

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Raj Kumar Arya, Advocate
for the petitioner

Mr. Vikas Arora, DAG, Punjab.

Mr. Ritik Chatrat Kapur, Advocate
for respondent No.2 to 4

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* to quash the impugned order dated 28.04.2025 (Annexure P-1) passed by respondent No.4, whereby the petitioner has been charge sheeted after his retirement for the charges of 2010-11, being in violation of law prescribed under Rule 2.2 (b), Note 2, Clause (b) proviso (i) and (ii) of the Punjab Civil Services Rule, Volume II. Further the petitioner has prayed for stay on the operation of the charge sheet during the pendency of this petition.

FACTUAL BACKGROUND

2. Briefly, the facts of the case, as alleged, are that, the petitioner, joined the respondent department as Junior Engineer in 1991, was promoted



to Sub Divisional Engineer in 2011 and to Divisional Engineer in 2017, and retired on 29.02.2024 after over 34 years of service upon superannuation. On 28.04.2025, Respondent No. 4 issued the impugned charge-sheet (Annexure P-1), over alleged events that took place 14 years ago during 2010–2011, alleging negligence in execution of Optimum Utilisation of Vacant Government Land (OUVGL) scheme project at Verka Milk Plant, Amritsar.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been charged with charges/ incident which took place 14 years before the issuance of chargesheet dated 28.04.2025 (Annexure P-1), and after the superannuation of the petitioner as the petitioner retired on 29.02.2024 and thus in violation of Rule 2.2 (b), Note 2, Clause (b) proviso (i) and (ii) of the Punjab Civil Services Rule, Volume II. It is further contended that the work could not be completed due to shortage of funds and non-issuance of NOC by PSPCL and thus the petitioner cannot be held responsible for the loss incurred by the respondent. Further, leave encashment and gratuity have not been released on account of the charge sheet.

4. Learned Counsel for the State was unable to controvert to the factual position and implication of Rule 2.2 (b), Note 2, Clause (b) proviso (i) and (ii) of the Punjab Civil Services Rule, Volume II.

OBSERVATION and ANALYSIS

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that the after the retirement of the petitioner upon attaining the age of superannuation on 29.02.2024, the petitioner was charge sheeted on 28.04.2025 (Annexure P-1)



for an alleged incident that took place 14 years ago in 2010 - 11. This Court finds it appropriate to study the relevant provision of the Rule 2.2 (b), Note 2, Clause (b) proviso (i) and (ii) of the Punjab Civil Services Rule, Volume II, which is reproduced for ready reference.

2.2 (b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if, in a departmental or judicial proceeding, the pensioner is found guilty of grave mis-conduct or negligence during the period of his service, including service rendered upon re-employment after retirement:

Provided that—

(1) Such departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, be deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service;

(2) Such departmental proceedings, if not instituted while the officer was in service whether before his retirement or during his re-employment—

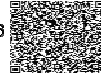
(i) shall not be instituted save with the sanction of the Government;

(ii) shall not be in respect of any event which took place more than four years before such institution; and

6. The rule precisely forbids initiating disciplinary proceedings after an employee has retired, if the matter pertains to an event that happened over four years before the date of initiating the proceedings.

7. In the present case the charge-sheet, which is issued on 28.04.2025 (Annexure P-1) discloses that the date on which the alleged misconduct is between 2010 - 11, which was about 14 years before the issuance of charge-sheet issued after the superannuation of the petitioner.

8. 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.” (emphasis added)

9. Pension and other retiral benefits do not possess a gratuitous nature.

Rather, such benefits accrue to the retiree by virtue of dedicated service rendered by him to his employer for a significant portion of his life. A Constitutional Bench of the Hon’ble Supreme Court in ***D.K. Nakara and others vs. Union of India (1983) 1 SCC 305*** has categorically stated that pension is not a matter of bounty or grace but a vested right. Speaking through Justice D.A. Desai, the following was opined:

“20. The antiquated notion of pension being a bounty, a gratuitous payment depending upon the sweet will or grace of the employer not claimable as a right and, therefore, no right to pension can be enforced through Court has been swept under the carpet by the decision of the Constitution Bench in Deoki Nandan Prasad v. State of Bihar, 1971 (Supp) SCR 634 wherein this Court authoritatively ruled that pension is a right and the payment of it does not depend upon the discretion of the Government but is governed by the rules and a Government servant coming within those rules is entitled to claim pension. It was further held that the grant of pension does not depend upon anyone's discretion. It is only for the purpose of quantifying the amount having regard to service and other allied matters that it may be necessary for the authority to pass an order to that effect but the right to receive pension flows to the officer not because of any such order but by virtue of the rules. This view was reaffirmed in State of Punjab v. Iqbal Singh, (1976) 3. SCR 360 .

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28. Pensions to civil employees of the Government and the defence personnel as administered in India appear to be a compensation for service rendered in the past. However, as held in Dodge v. Board of



Education, (1937) 302 US 74 : 82 Law Ed 57 a pension is closely akin to wages in that it consists of payment provided by an employer, is paid in consideration of past service and serves the purpose of helping the recipient meet the expenses of living. This appears to be the nearest to our approach to pension with the added qualification that it should ordinarily ensure freedom from undeserved want.

29. Summing-up it can be said with confidence that pension is not only compensation for loyal service rendered in the past, but pension also has a broader significance, in that it is a measure of socio-economic justice which inheres economic security in the fall of life when physical and mental prowess is ebbing corresponding to ageing process and therefore, one is required to fall back on savings. One such saving in kind is when you gave your best in the heyday of life to your employer, in days of invalidity, economic security by way of periodical payment is assured. The term has been judicially defined as a stated allowances or stipend made in consideration of past service or a surrender of rights or emoluments to one retired from service. Thus the pension payable to a Government employee is earned by rendering long and efficient service and therefore can be said to be a deferred portion of the compensation for service rendered. In one sentence one can say that the most practical raison d'etre for pension is the inability to provide for oneself due to old age. One may live and avoid unemployment but not senility and penury if there is nothing to fall back upon."(emphasis added)

10. A Two Judge Bench of the Hon'ble Supreme Court in ***Pepsu Road Transport Corporation, Patiala vs. Mangal & Ors. 2011 (11) SCC 702***

speaking through Justice H.L Dattu made the following observation.

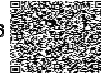
34. The concept of pension has been discussed in Halsbury's Laws of England, Fourth Edition (Reissue), Vol. 16, para. 400 as thus:

"Meaning of 'pension'. 'Pension' means a periodical payment or lump sum by way of pension, gratuity or superannuation allowance as respects which the Secretary of State is satisfied that it is to be paid in accordance with any scheme or arrangement having its object or one of its objects to make provision in respect of persons serving in particular employments for providing them with retirement benefits ... 'Pension' does not include:

(i) a payment to an employee which consists solely of a return of his own contributions, with or without interest;

(ii) that part of a payment to an employee which is attributable solely to additional voluntary contributions by that employee made in accordance with the scheme or arrangement;

(iii) a periodical payment or lump sum, in so far as that payment or lump sum represents compensation under the statutory compensation schemes and is payable under a statutory provision, whether made or passed before, on or after 31st July 1978"



35. The concept of pension has also been considered in *Corpus Juris Secundum*, Vol. 70, at pg. 423 as thus:

"A pension is a periodical allowance of money granted by the Government in consideration or recognition of meritorious past services, or of loss or injury sustained in the public service. A pension is mainly designed to assist the pensioner in providing for his daily wants, and it presupposes the continued life of the recipient."

36. To sum up, we state that the concept of pension has been considered by this **court** time and again and in catena of cases, it has been observed that the Pension is not a charity or bounty nor is it a conditional payment solely dependent on the sweet will of the employer. It is earned for rendering a long and satisfactory service. It is in the nature of deferred payment for past services. It is a social security plan consistent with the socio-economic requirements of the Constitution when the employer is a State within the meaning of Article 12 of the Constitution rendering social justice to a superannuated Government servant. It is a right attached to the office and cannot be arbitrarily denied. [see *A.P. Srivastava v. Union of India*, (1995) 6 SCC 227, *Vasant Gangaramsa Chandan v. State of Maharashtra*, (1996) 10 SCC 148, *Subrata Sen v. Union of India*, (2001) 8 SCC 71, *Union of India v. P.D. Yadav*, (2002) 1 SCC 405, *Grid Corpn. of Orissa v. Rasananda Das*, (2003) 10 SCC 297, *All India Reserve Bank Retired Officers Assn. v. Union of India* (Supra)].

11. The approach adopted by the respondents to deprive the petitioner of the well-deserved retiral benefits accrued to him, in view of the service rendered by him, ought to be condemned in the strictest terms. Oftentimes, retiral benefits are the only source of income for many families, especially when the primary breadwinner has retired. The retired employees and their kin not only rely on the same for fiscal security but also for their very survival. It was also observed in *D.K. Nakara(supra)* that pension and retiral benefits are akin to wages, relied upon by the petitioner and his family for assistance post-retirement. The Denial of pension or withholding it without justifiable cause violates Article 21 of the Constitution of India, reference may be drawn to the judgment rendered by a Constitution bench of the Hon'ble Supreme Court in *Olga Tellis vs. Bombay Municipal Corporation*(1985) 3 SCC 545, whereby the scope of Article 21 of the Constitution of India was expanded by interpreting it to include the right to livelihood. Speaking through Justice Y.V. Chandrachud, the following was observed:



32. ...An equally important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood. **If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live.** And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leave aside what makes life livable, must be deemed to be an integral component of the right to life. **Deprive a person of his right to livelihood and you shall have deprived him of his life.** ...”
(emphasis added)

12. Furthermore, the right to life enshrined in Article 21 of the Constitution of India, is not limited to mere animal -like existence but includes the right to live a meaningful life, with dignity in the truest sense of the term. The Hon’ble Supreme Court in *Francis Coralie Mullin vs. Administrator, Union Territory of Delhi (1981) 1 SCC 608* has opined that any act offending human dignity constitutes a violation thereof. It was further clarified that bare necessities such as “adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings” as well as any other activities constituting a “bare minimum expression of human self,” subject to the degree of economic development of the State, form a part and parcel of right to life under Article 21 of the Constitution of India.

13. In a welfare State like ours, the very object of granting pension and other retiral benefits is to secure to retirees and their families the means to live a life of dignity; accordingly, any delay in the disbursement of such benefits particularly when occasioned by the omission or lapse of the State or its instrumentalities must be regarded as a violation of the beneficiaries’



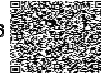
fundamental rights. In that vein, a gainful reference can be made to the judgment rendered by a Full Bench of this Court in ***A.J. Randhawa Supg. Engineer (Retd.) vs. State of Punjab 1998 (1) SCT 343*** wherein it was opined that disbursement of pension and other benefits payable at retirement must be done in a timely manner. Any delay over a period of two months, qua the said disbursement would entitle the retired employee to claim interest on the amount due. Speaking through Justice N.K. Sodhi, the following was held:

*“9. Since a Government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in *M. Padmanabhan Nair's case (supra)*. If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement. Again, as to what should be the rate of interest, it should, in our view, be generally 12% unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18%.”(emphasis added)*

14. Reliance in this regard may also be paid on the judgments rendered by the Hon’ble Supreme Court in ***S.K. Dua vs. State of Haryana (2008) 3 SCC 44*** and ***State of Kerala vs. M. Padmanabhan Nair (1985) 1 SCC 429***.

CONCLUSION

15. Since the charge-sheet has been adjudged to have been issued unlawfully, the petitioner is entitled not only to interest but also to the costs of the present proceedings. The gratuity amount and the leave encashment,



which was unjustifiably withheld, shall be released to the petitioner within a period of thirty (30) days, together with interest at the rate of 7.5% per annum, computed from 29.02.2024 until the date of actual disbursement.

16. The valuable time of this Hon'ble Court has been unnecessarily consumed in adjudicating the present avoidable litigation, which the petitioner was constrained to initiate on account of the conduct of the respondents in gross violation of law. The proceedings are wholly contrary to the fundamental objectives of the Litigation Policy of the State of Punjab. Since the petitioner's pensionary dues were unjustifiably withheld, the respondents are directed to pay costs of ₹50,000/-, the same to be disbursed by the Respondent No.2 to the petitioner within thirty (30) days from the date of this order.

17. Disposed of in the above terms.

(HARPREET SINGH BRAR)
JUDGE

11.08.2025

PC-

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