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

**CWP-28174-2025 (O&M)
Date of decision: 17.02.2026**

Sher Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Navjot Kaur, Advocate for
Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

Mr. Vikram Preet Arora, Advocate
for the respondent-MC.

HARPREET SINGH BRAR, J.

1. Present petition has been preferred under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing of the order dated 13.12.2023 (Annexure P-7), vide which less retiral benefits including pay, arrears of GPF, leave encashment and pension were released in view of pendency of a criminal case and further to issue a writ in the nature of *mandamus* directing the respondents to release full retiral benefits



to the petitioner.

2. On 02.02.2026, following order was passed by this Court: -

“Learned counsel for the petitioner, inter alia, contends that the petitioner retired on 31.08.2020 from the post of Clerk. During his service period, a false FIR No.59 dated 16.04.2011 under Section 409 of the Indian Penal Code, 1860 was registered against him, in which, on 27.10.2012, cancellation report was submitted and the same was accepted by learned Judicial Magistrate 1st Class, Moga on 28.03.2019, prior to retirement of the petitioner, as discernible from the order (Annexure P-2). Despite judicial closure of the criminal case, the respondents withheld retiral benefits of the petitioner. Feeling aggrieved, the petitioner filed a writ petition i.e. CWP-4364-2021 and vide order dated 24.02.2021 (Annexure P-5), this Court disposed of the same and directed the competent authority to decide his representation dated 04.11.2020 (Annexure P-4) within a period of two months from the date of receipt of certified copy of that order. Instead of complying with the directions issued by this Court vide order dated 24.02.2021 (Annexure P-5), the respondents coerced the petitioner to submit an affidavit (Annexure P-6) undertaking not to pursue the legal remedies as a pre-condition for releasing his dues. Despite that, retiral benefits of the petitioner are still not released. Further, a speaking order dated 13.12.2023 (Annexure P-7) was passed, vide which two departmental inquiries conducted during service period of the petitioner, which were pending for conclusion, were considered as concluded and decided not to proceed further. As such, there is no embargo in releasing retiral dues of the petitioner.



A perusal of the speaking order (Annexure P-7) clearly indicates that the matter has attained finality on 13.12.2023 and the petitioner is compelled to approach this Court by way of filing the present petition. This is 4th date in the urgents.

Learned counsel for respondent No.5 seeks further adjournment.

In view of the above, respondent No.1 is directed to file his affidavit as to why in spite of passing of the speaking order (Annexure P-7) on 13.12.2023 by respondent No.2, retiral dues of the petitioner have not been released till date.

List again on 17.02.2026.”

3. In purported compliance of the aforesaid order, learned State counsel as well as learned counsel for the respondent-MC have filed short replies by way of affidavits of Manjeet Singh Brar, Secretary to Government of Punjab, Department of Local Government, Punjab and Jaspinder Singh, Commissioner, Municipal Corporation, Moga-respondent No.2, respectively, in the Court today, which are taken on record and copies thereof have been supplied to learned counsel for the petitioner.

4. Learned State counsel as well as learned counsel for the respondent-MC submit that all the admissible dues have been paid to the petitioner and only the amount of Rs.3.40 lakhs has been withheld on the basis of affidavit (Annexure P-6) furnished by him. As such, a lenient view was taken.

5. In rebuttal, learned counsel for the petitioner refers to the



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impugned order dated 13.12.2023 (Annexure P-7) and submits that two chargesheets were issued on 09.02.2001 and 09.05.2018, which were never taken to their logical conclusion, as the disciplinary proceedings were not ended in passing of any punishment order till date. Further, after retirement of the petitioner on 31.08.2020, when he was in dire need of his retiral benefits, an undertaking was obtained from him under duress, which is contrary to the law laid down by this Court in *CWP-28761-2025* titled as *Ranjit Singh Vs. State of Punjab and others*, decided on 25.09.2025.

6. On a pointed query, learned State counsel as well as learned counsel for the respondent-MC are not in a position to controvert the fact that till date, no punishment order has been passed and merely vide resolution dated 233 dated 28.03.2023 (Annexure R-1), the chargesheets were ordered to be dropped. The said resolution was passed by the General House of respondent No.2-Corporation and not by the disciplinary authority.

7. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner retired from service on 31.08.2020. During his service tenure, one FIR No.59 dated 16.04.2011 was registered under Section 409 of the Indian Penal Code, 1860 against the petitioner, in which, on 27.10.2012, cancellation report was submitted and the same was accepted by learned Judicial Magistrate 1st Class, Moga vide order dated 28.03.2019 (Annexure P-2), prior to retirement of the petitioner. Further, disciplinary proceedings initiated against the petitioner



while he was in service, by serving two chargesheets on 09.02.2001 and 09.05.2018 have not been concluded till date. As such, case of the petitioner is squarely covered by a judgment of the Hon'ble Supreme Court in ***Prem Nath Bali Vs. Registrar, High Court of Delhi and another, Civil Appeal No.958 of 2010***, decided on 16.12.2015 and the judgment of this Court in ***CWP-9606-2022*** titled as ***Khairati Lal Vs. State of Haryana and others***, decided on 13.10.2025, wherein it has been held that the disciplinary proceedings against an employee must be decided within a reasonable time. Without concluding the disciplinary proceedings/enquiries within suitable timeframe and in the absence of passing of any order of punishment, the respondents cannot withhold part of the retiral dues of an employee merely on the basis of an undertaking, which was taken under compelled circumstances.

8. Further, the petitioner was forced to furnish an affidavit for not claiming the amount of Rs.3.40 lakhs, which was withheld/recovered from his retiral dues for late depositing the electricity bills. In the said affidavit, it is mentioned that if the Municipal Corporation, in future, decides to recover the aforesaid amount, the petitioner would not be entitled to claim the same. In this regard, this Court in ***Ranjit Singh's*** case (*supra*) has held that under the garb of an undertaking obtained from the employee under duress, the employer being an instrumentality of the State cannot withhold/deny the service benefits including arrears of salary, increments, continuity of service and retiral benefits. In the said judgment, with regard to whether an employee can be



denied substantial service rights on the basis of an undertaking given by him/her on the dictate of the employer, following has been observed: -

“16. It must be noted that there is an inherent imbalance of power between an employer and an employee. The employer, very unambiguously, controls the source of livelihood of the employee and thereby is in a position of influence. When such employer is an instrumentality of the State itself, a unique opportunity is presented to lead as an example. As such, it is vital that a fair procedure established by law, preventing arbitrary abuse of power is strictly adhered to. Demanding undertakings that lack legal sanctity or capriciously denying benefit of the services rendered by an employee is inconsistent with the constitutional guarantees. 17. Unfortunately, the practice of extracting undertakings from employees who have been reinstated after tedious litigation is rather common. These undertakings are exploitative as they often pertain to forgoing past service benefits including arrears of salary, increments, continuity of service and retiral benefits and are obtained by placing the employees under duress. Often the reinstated employees are issued fresh appointment letters, as is the case in the matter at hand, to deny them any benefits of their past service, which directly impacts their regularization, seniority and pensionary benefits. Considering that livelihoods are at stake, the employees often remain silent in the face of these exploitative practices. This Court cannot allow an employer to take advantage of their employees’ financial circumstances to bend them to their will. As such, the question framed above is answered in the following terms -

Such exploitative undertakings are void ab initio since no



employee can be forced to contract out of his statutory rights.”

9. Furthermore, in ***Khairati Lal***'s case (*supra*), this Court, while relying upon judgments of the Hon'ble Supreme Court in ***State of A.P. Vs. Radhakishan, (1998) 4 SCC 154, P.V. Mahadevan Vs. M.D., Tamil Nadu Housing Board, 2005(6) SCC 636, State of Punjab Vs. Chaman Lal Goyal, 1995(2) SCC 570*** and ***Prem Nath Bali***'s case (*supra*), has held that delay in conclusion of the disciplinary proceedings, if any, initiated prior to retirement of an employee cannot be attributed to him/her and directions in this regard have been issued, by making the following observations: -

“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.”*

10. In the wake of above discussion, present petition is allowed and the impugned order dated 13.12.2023 (Annexure P-7) passed by respondent No.2-Commissioner, Municipal Corporation, Moga is hereby set aside. The respondents are directed to release the withheld amount of Rs.3.40 lakhs in favour of the petitioner along with interest @6% *per annum* from the due date



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till its actual realization. Needful be done within a period of three months from the date of receipt of certified copy of this order.

11. In case the respondent-Corporation deviates from the directions issued by this Court, the petitioner would be at liberty to file an appropriate application under Article 215 of the Constitution of India for initiating the contempt proceedings before this Court.

12. The pending miscellaneous application(s), if any, shall stand disposed of.

**[HARPREET SINGH BRAR]
JUDGE**

17.02.2026
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No