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

243 CWP-22001-2023
Date of Decision: **20.04.2026**

Rajinder

.....Petitioner

VERSUS

Dakshin Haryana Bijli Vitran Nigam Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Parveen Moudgil, Advocate for the petitioner.

Ms. Sehej Sandhawalia, Advocate for the respondents.

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HARPREET SINGH BRAR, J. (Oral)

1. The present civil writ petition has been filed under Article 226 read with Article 227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to release withheld amount of Rs.307541/- towards retiral benefits along with interest @ 18% p.a. from the date of retirement of petitioner and further directing to the respondents to grant interest @ 12% on delayed payment of pensionary benefits as petitioner was retired on 28.02.2019, whereas, his pensionary benefits were released on 28.03.2021. Further, praying for issuance of a writ in the nature of *certiorari* for quashing the instructions dated 02.09.2005 (Annexure P-1) only to the extent by which the benefit of breakage/shortage

has been restricted to 5% of the existing cost of transformer and 20% of the total cost of transformer oil.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner superannuated from service on 28.02.2019 upon attaining the age of retirement while serving as Assistant Finance Manager (AFM). It is vehemently urged that, on the date of his superannuation, neither any disciplinary proceedings were pending nor had any charge-sheet been issued against him, and, thus, the petitioner retired with an unblemished and impeccable service record. Despite the aforesaid admitted position, the respondents have illegally withheld a portion of the retiral dues of the petitioner on the ostensible ground of certain audit objections. Learned counsel submits that, in the absence of any duly instituted disciplinary proceedings, the respondents are wholly disentitled in law from effecting any recovery or withholding any part of the retiral benefits, which otherwise constitute a vested right accruing upon retirement.

3. *Per contra*, learned counsel appearing for the respondents submits that the withheld retiral dues of the petitioner, i.e. the amount in question, have since been released during the pendency of the present writ petition on 19.02.2025, and, thus, the grievance of the petitioner stands substantially redressed.

4. I have heard learned counsel for the parties and have perused the record with their able assistance. It transpires from the admitted factual matrix that the petitioner retired from service on 28.02.2019 and that his

pensionary benefits came to be released only on 28.03.2021. However, an amount of Rs.3,07,541/- was withheld by the respondents on the pretext of audit objections, which was ultimately released to the petitioner on 19.02.2025. The justification advanced by the respondents for such withholding does not merit acceptance. It is a settled proposition of law that, in the absence of any pending or contemplated disciplinary proceedings, no recovery can be effected from the retiral dues of an employee merely on the basis of audit objections. Such an action is ex facie arbitrary and unsustainable in the eyes of law.

5. The issue involved herein is no longer res integra. It stands consistently held by this Court that retiral benefits are not a matter of bounty, but a vested and enforceable right, and any withholding thereof, dehors the procedure established by law, cannot be countenanced. Reliance in this regard may be placed upon the judgment rendered by the Hon'ble Supreme Court in ***State of Punjab vs. Rafiq Masih, 2015 (1) SCT 195,*** wherein recovery from retired employees has been held to be impermissible in law. Further, audit objections, in themselves, do not confer any authority upon the employer to withhold or recover amounts from retiral dues in the absence of duly instituted disciplinary proceedings. Reliance in this regard may be placed upon the judgment rendered by Hon'ble Supreme Court in ***ITC Limited v. State of Uttar Pradesh and Others (2011) 7 SCC 493.*** Relevant extract thereof may be reads as under:-

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64. "We may give an example from service jurisprudence, where a principle of equity is frequently invoked to give relief to an employee in somewhat similar circumstances. Where the pay or other emoluments due to an employee is determined and paid by the employer, and subsequently the employer finds, (usually on audit verification) that on account of wrong understanding of the applicable rules by the officers implementing the rules, excess payment is made, courts have recognised the need to give limited relief in regard to recovery of past excess payments, to reduce hardship to the innocent employees, who benefited from such wrong interpretation. A three Judge bench of this Court in ***Syed Abdul Qadir v. State of Bihar [2009 (3) SCC 475]*** *stated the principle thus :*

> *"This Court, in a catena of decisions, has granted relief against recovery of excess payment of emoluments/allowances if (a) the excess amount was not paid on account of any misrepresentation or fraud on the part of the employee and (b) if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous.*
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> *The relief against recovery is granted by courts not because of any right in the employees, but in equity, exercising judicial discretion to relieve the employees from the hardship that will be caused if recovery is ordered. But, if in a given case, it is proved that the employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where the error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, courts may, on the facts and circumstances of any particular case, order for recovery of the amount paid in excess."*

6. In view of the foregoing discussion, the present writ petition is disposed of with a direction to the respondents to pay interest @ 6% per annum not only on the withheld amount of Rs.3,07,541/-, but also on the retiral dues which were released belatedly after the retirement of the petitioner. The said interest shall be computed from two months after the date of retirement of petitioner till the date of its actual disbursement.

7. The aforesaid exercise shall be undertaken expeditiously and, in any case, within a period of three months from the date of receipt of a certified copy of this order.

8. All pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

20.04.2026
Puneet Chawla

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