



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

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CWP-36946-2025 (O&M)
Date of decision: 11.12.2025

Rajinder Singh

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. V.D. Sharma, Advocate
with Mr. Vishesh Sharma, Advocate for the petitioner.

Mr. Piyush Khanna, Addl. A.G., Haryana.

Mr. Vikrant Pamboo, Advocate for respondents No.2 and 3.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for setting-aside the action of the respondents vide which an amount of Rs.4,56,734/- has been illegally deducted from the gratuity amount of the petitioner, after his retirement only by issuing a show-cause notice dated 09.04.2020 (Annexure P-1) with regards to certain irregularities found by the Audit Party in non-posting of sundry items in consumers account. Further a writ of *mandamus* has been sought, directing the respondents to release the benefits of 3rd ACP to the petitioner w.e.f. 01.10.2020 as the same has been withheld due to pendency of the abovesaid show-cause notice dated 09.04.2020 (Annexure P-1) and to refund the amount of Rs.4,56,734/- along with all



consequential benefits including 3rd ACP and accordingly, release the arrears after refixing the retrial benefits of the petitioner from the due date with interest @ 12%.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner joined the service with respondent/Nigam as a Lower Division Clerk and retired as Assistant/Field on attaining the age of superannuation on 30.04.2022. On 15.02.2024, an amount of Rs.4,56,734/- was allegedly recovered from the gratuity of the petitioner unilaterally on account of undue benefits given to the consumers, even though the entire amount along with interest, had already been recovered from the consumers in the month of December, 2019. He further submits that no financial loss was caused to the respondent/Nigam, yet show cause notice dated 09.04.2020 (Annexure P-1) was issued to the petitioner and the aforesaid amounts were deducted from the petitioner's gratuity without issuing any charge-sheet or conducting any enquiry or affording an opportunity of hearing to the petitioner. There is no conclusion by any authority regarding the financial loss suffered by the respondent/Nigam. The petitioner has completed 24 years of service and made several representations pointing out the illegality of the deductions and the absence of any loss but the respondent/Nigam failed to act thereupon, resulting in denial of the 3rd ACP due on 01.10.2020 and causing recurring loss in pension of the petitioner. Learned counsel for the petitioner further submits that, in terms of Regulation 12.3 A of the UHBVN Service Regulations, 2005,



where there is no *mala fide* intention and the disputed amount has been promptly recovered, the employee cannot be subjected to any disciplinary action. Learned counsel for the petitioner further contends that the continued inaction and unilateral deductions made by the respondents have caused substantial prejudice to the petitioner.

3. *Per contra*, learned State counsel as well as learned counsel for respondents No.2 and 3 contends that the deductions of Rs.4,56,734/- from the gratuity of the petitioner were made in accordance with the departmental rules and only on the basis of the internal audit and due verification regarding undue benefits to consumers, a show-cause notice has been issued to the petitioner. However, he could not controvert the fact that the impugned recovery or deductions were made unilaterally, without issuing any charge-sheet or conducting any inquiry.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. From the perusal of the record, it is evident that the respondent/Nigam has unilaterally deducted a sum of Rs.4,56,734/- from the gratuity of the petitioner without issuing any charge-sheet, conducting any departmental inquiry or affording an opportunity of hearing to the petitioner. The show-cause notice dated 09.04.2020 (Annexure P-1) alone cannot substitute the mandatory requirement of giving an opportunity of being heard before effecting any recovery, particularly when the entire disputed amount along with interest had



already been recovered by the respondent/Nigam, from the consumers in the month of December, 2019. There is no material on record to indicate that any financial loss was suffered by the respondent/Nigam on account of the petitioner's alleged act and the continued inaction on the representations submitted by the petitioner further shows that the recovery was effected unfairly.

6. The issue involved in the present writ petition is no longer *res integra*. The Division Bench of this Court in ***Ashok Kumar Dhamija v. Dakshin Haryana Bijli Vitran Nigam Limited and others***, passed in CWP-7949-2005, decided on 21.09.2006 and ***Surjeet Singh Bedi v. Dakshin Haryana Bijli Vitran Nigam Limited and others***, passed in CWP-1062-2012, decided on 04.12.2013 and ***Kirat Gopal vs Haryana Vidyut Parsaran Nigam Limited and others***, passed in CWP-13039-1999, decided on 20.03.2000, has already held that where amounts have been illegally recovered from an employee, the same shall be refunded along with interest. The relevant part of the judgment passed in ***Ashok Kumar Dhamija's case (supra)***, reads as follows:-

Having heard the learned counsel for the parties, we are of the considered view that the respondents could not have with-held any amount of gratuity payable to the petitioner on account of allegation which have emanated after the date of his retirement. Such a course is not available to the respondents. In some what similar circumstances, this Court has earlier also in the case of Hans Raj Sharma v. Uttar Haryana Bijli Vitran Nigam Limited and others (Civil Writ Petition No. 152 of 2004,



decided on October 29, 2004) has allowed the writ petition by following the judgment of Hon'ble the Supreme Court in P.R. Naik v. Union of India, AIR 1972 SC 554. It has been laid down in the aforementioned judgment that issuance of charge-sheet for initiation of departmental enquiry is a sine qua non.

In view of the above, we allow the writ petition and quash the impugned order dated March 1, 2005 (P-14). We further direct the respondents to release the balance of gratuity amount to the petitioner within a period of one month from the date a certified copy of this order is presented to the respondents. In case, the needful is not within one month, then the petitioner shall be entitled to interest at the rate of 6% per annum from the date the amount is payable till its actual payment.

7. Moreover, the Single Bench of this Court in **CWP-9346-2011**, titled as ***Omi Devi vs Uttar Haryana Bijli Vitran Nigam Limited and others***, decided on **23.05.2012**, has explicitly held that non-payment of the Death-cum-Retirement Gratuity (DCRG) benefit by citing an audit objection is untenable and an audit objection cannot *per se* be a ground for withdrawal of the benefit, if the amount was not determined during the service of the deceased employee.

8. In view of the above, the present petition is allowed. The action of the respondents/Nigam in unilaterally deducting the amount of Rs.4,56,734/- from the gratuity of the petitioner without issuing a charge-sheet, conducting any inquiry or affording an opportunity of hearing, particularly when the amount had already been recovered from the consumers, is held to be illegal and arbitrary and is hereby quashed.



Consequently, the respondents are directed to refund the deducted amount of Rs.4,56,734/- to the petitioner, along with interest @ 6% per annum from the date of recovery i.e. 15.02.2024 till the date of actual payment. Furthermore, the respondents are directed to immediately release the benefits of the 3rd ACP time-bound scale to the petitioner, deemed due w.e.f. 01.10.2020 and shall re-fix the petitioner's pension accordingly. The arrears resulting from the release of the 3rd ACP and the re-fixation of the pension shall also carry a simple interest @ 6% per annum from the due date until the date of actual realization. The entire exercise, including the refund of the illegally recovered amount and the payment of all consequential arrears and benefits, shall be completed by the respondents/Nigam within a period of three months from the date of receipt of certified copy of this order.

9. Pending miscellaneous application, if any, also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

11.12.2025

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