



CWP-14421-2024 (O&M)

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

-:-

**CWP-14421-2024 (O&M)
Reserved on 09.09.2024
Pronounced on : 23.09.2024**

Naginderjit Singh

.....Petitioner

Vs.

State of Punjab and Others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. H.P.S.Bunger, Advocate for the petitioner.

Mr. Maninder Singh, Sr. DAG Punjab.

Ms. Divya Sharma, Advocate for respondent No.3.

SUDEEPTI SHARMA J.

The challenge in the present writ petition is to the letter No.6872/PEN.2.VI.J, dated 01.03.2024, issued by the Assistant Registrar (Pension) for Registrar General, Punjab and Haryana High Court in lieu of letter dated 25.07.2022 issued by the Department of Finance, Punjab. Further prayer in the present petition is for issuance of direction to respondent No.1 (State of Punjab through Principal Secretary to Govt. of Punjab Department of Finance, Punjab), respondent No.2 (The Principal Secretary, Department of Home Affairs and (Judicial-1) Branch, Punjab Civil Secretariat) and respondent No.3 (The Registrar General, Punjab and Haryana High Court, Chandigarh) to pay the interest @18%



on the delay of payment of salary, pensionary benefits and gratuity etc., to the petitioner from 14.05.2019 till date.

2. The brief facts as stated in the petition are as under:-

i) That the petitioner was initially appointed to the Punjab Civil Services (Judicial Branch) on 17.10.1983 and subsequently he was promoted to Punjab Superior Judicial Services and was posted as Additional District and Sessions Judge on 18.02.1999. However, on 12.07.2004, a charge-sheet was served on the petitioner and show cause notice was served on 11.11.2005. The petitioner submitted a detailed reply on 30.11.2005 and the petitioner was compulsorily retired from service on 08.06.2006.

ii) Subsequently the petitioner filed CWP No. 5639 of 2007, whereby the impugned order dated 08.06.2006 was set aside by this Court vide judgment dated 08.08.2018 and the respondents were directed to make payment of 50% salary of the petitioner from the date of order of the compulsory retirement till the date of his superannuation.

iii) The Court further granted continuity of service throughout for the purpose of granting terminal benefit, including pension, within a period of six months from the date of obtaining certified copy of the judgment dated 08.08.2018.

iv) That the petitioner vide letter dated 09.11.2018 requested to refix his pension and release his arrears of pay.



v) The petitioner filed COCP No.2837 of 2018. Respondent No.3 (The Registrar General, Punjab and Haryana High Court, Chandigarh) filed a reply wherein it was stated that certain objections were raised by the Accountant General as category of petitioner to draw his pension had changed and the petitioner was directed to deposit the entire amount of pensionary benefits drawn by him against PPO No.226827/PB, but the petitioner had requested that the amount received by him could be deducted from the arrears of pension to be released after refixation of pension on account of change of category.

vi) Another affidavit in the contempt petition was filed by the Accountant General on 14.07.2023 to state that the entire Disbursing Authority is the District Treasury Officer and thus the District Treasury Officer be made party in the contempt petition.

vii) The petitioner returned pensionary benefits and was issued 'No Due Certificate' on 5.10.2023, by the Assistant Registrar General for Registrar General of Punjab and Haryana High Court Chandigarh. This was done in lieu of letter dated 14.07.2023. The letters dated 14.07.2023 and 05.10.2023, are reproduced as under:-

Letter dated 14.07.2023

“ No _____ /Pen.2/VI.J.

From

*The Registrar General,
High Court of Punjab and Haryana,
Chandigarh.*



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To

*The District Treasury Officer,
Jalandhar.*

Dated, Chandigarh, the _____

Subject:- Issuance of 'Non-Payment Certificate' in respect of Sh. Naginderjit Singh. Addl. District & Sessions Judge, retired from service on 31.05.2017 (e-P.P.O. No. 1123042958).

Sir,

I am directed to refer you on the subject cited above and to inform you that no Provisional Pension and no Provisional Death-cum-Retirement Gratuity except an amount of Rs. 57,78,449/- (Rs. 55,02,815/- towards pension as per Bank statement dated 05.04.2023 & 21.06.2023 submitted by SBI, Sector 37, Chandigarh till 3rd April. 2023 and Rs. 2,75,634/- towards DCRG paid against PPO No. 226827/Pb. on compulsory retirement) has been paid to Sh. Naginderjit Singh, Addl. District & Sessions Judge, retired from service on 31.05.2017 on attaining the age of superannuation, by this Court.

After supplying a copy thereof, you are further requested to pay arrears of pension payable to the officer w.e.f. 01.06.2017, against e-PPO No. 1123042958, after adjusting the total amount of already paid pensionary benefits to the tune of Rs. 57.78,449/- under intimation to this Court.

Yours faithfully,

Encl: As above

Sd/-

*Assistant Registrar (Pension)
for Registrar General*

Endst.No _____/Pen.2/VI.J., dated _____



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Copy forwarded to the office of Account General (A&E), Punjab, Chandigarh, for information w.r.t letter No.Pen01/intimation/23-24/PE/23/10/80571222, dated 17.06.2023.

Endst.No _____/Pen.2/VI.J., dated _____

Copy forwarded to District & Sessions Judge, Ferozepur, for information alongwith copy of letter No.Pen01/intimation/23-24/PE/23/10/80571222, dated 17.06.2023.

Endst.No.1788 SPL Pen.2/VI.J., dated 14.07.2023

Copy forwarded to Sh. Naginderjit Singh, Additional District & Sessions Judge (retired),R/o #1113, Urban Estate, Phase-1, Jalandhar, for information.

Sd/-

*Assistant Registrar (Pension)
for Registrar General”*

Letter dated 05.10.2023

“
From No. _____ *Genl./III.F.15.*

*The Registrar General,
High Court of Punjab and Haryana,
Chandigarh.*

To

*The Chief Secretary to Government of Punjab,
Civil Secretariat, Punjab, Chandigarh.
Dated, Chandigarh the _____*

Subject: Issuance of N.D.C. in favour of Sh. Naginderjit Singh, a former member of Punjab Superior Judicial Services, since retired from the service on 31.05.2017.

Sir,

I am directed to refer you on the subject cited above and to say that nothing is due against Sh. Naginderjit Singh, a former



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member of Punjab Superior Judicial Services, since retired from the service on 31.05.2017.

Yours faithfully,

*sd/-
Assistant Registrar (General)
for Registrar General.*

Endst. No. ___ Genl./III.F.15 Dated _____

Copy forwarded to the following for information and necessary action:-

- 1. The Accountant General (A&E), Punjab, Chandigarh.*
- 2. The District Treasury Officer, Jalandhar.*
- 3. The District & Sessions Judge, Ferozepur.*

*sd/-
Assistant Registrar (General)
for Registrar General.*

Endst. No. _____ Genl./III.F. 15. Dated _____

Copy forwarded to the following for information and necessary action:-

- 1. Superintendent Pension Branch (with two spare copies),*
- 2. Superintendent Accounts Branch.*
- 3. Superintendent Salary Branch.*
- 4. Superintendent Gaz I Branch.*
- 5. Superintendent Gazette-II Branch.*
- 6. Superintendent Vigilance Branch (Punjab and Haryana High Court, Chandigarh)*

*sd/-
Assistant Registrar (General)
for Registrar General.*

*Endst. No. **1534 SPL** Genl./III.F. 15. Dated. **30.09.2023***

Copy forwarded to Sh. Naginderjit Singh, a former member of Punjab Superior Judicial Services, since retired from the service on 31.05.2017 (retd) through District & Sessions Judge, Ferozepur.

*sd/-
Assistant Registrar (General)*



for Registrar General.”

3. That letter dated 01.03.2024 was issued to the petitioner to deposit the interest of Rs.7,38,698/- on the pensionary benefits recovered from him. The same is impugned in the present writ petition and is reproduced as under:-

“No.6872/Pen.2/VI.J.

From

*The Registrar General,
High Court of Punjab and Haryana,
Chandigarh.*

To

*Sh. Naginderjit Singh
(retd. Addl.District & Sessions Judge,
R/o # 1113, Urban Estate, Phase-I
Jalandhar City.*

Dated, Chandigarh, the 01.03.2024

Subject:- Pension Case of Sh. Naginderjit Singh, Addl. District & Sessions Judge, Ferozepur, retired from service on 31.05.2017.

Ref:- This Court's letter Endst. No.22355/Pen.2/VI/J, dated 12.09.2022.

Sir,

I am directed to refer you on the subject cited above and to request you to deposit the interest amounting to Rs.7,38,698/- on the pensionary benefits that has been recovered from you, against PPO No.226827/PB., in the light of Punjab Government letter dated 25.07.2022 (Copy attached), in the concerned treasury, under intimation to this Court, so that your case for DCRG may be processed accordingly.

Yours faithfully,

Encl: As above

Sd/-

Assistant Registrar (Pension)



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*For Registrar General**Endst.No _____/Pen.2/VI.J., dated _____**Copy forwarded to the office of Account General (A&E), Punjab, Chandigarh, for information.”*

4. Letter dated 25.07.2022, is reproduced as under:-

“
Punjab Government
Finance Department
(Finance pension Policy and Coordination Branch)

*Subject: COCP No. 2837 of 2019 in CWP No.. 5633/2007-Naginderjit Singh Vs. Satish Chandra, IAS and Others.**For kind attention to the Principal Secretary, Government of Pun.jab, Ministry of Home Affairs and Justice Department regarding above said subject and this department letter FD-FPPCOADV/6/2020-1FPP/1/385723/1/390946/2020 dated 11.07.2022.*

2. *For the kind attention of the Administrative Department towards the letter dated 11.07.2022 of the Finance Department, it is clarified that the pension was received by the retired officer before the time and later on it was deposited in the Government treasury, on which regarding the recovery the appropriate interest according to the Rule 9.12 of the Punjab Civil Service Rules Volume-2 may kindly be taken.*

Sd/-
Harinder Kaur
Superintendent



25/07/2022

To

*Principal Secretary
Government of Punjab
Home Affairs and Justice Department,
Judicial – I Branch,
Punjab Civil Secretariat, Chandigarh*

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PARTIES

5. Learned counsel for the petitioner contends that the impugned letter dated 01.03.2024 is bad in the eyes of law since the respondent cannot ask the petitioner to deposit the interest on the pensionary benefits which were recovered from the petitioner. He further contends that it was because of the lapse on the part of the respondents that the petitioner was compulsorily retired from service and he returned the pensionary benefits and was issued 'No Due Certificate' on 5.10.2023. Therefore, he prays that the impugned letter be set aside and the present petition be allowed.

6. *Per contra*, learned counsel for respondent Nos. 1 and 2 relies upon Rule 9.13 of Punjab Civil Services Rules, VOL.II to submit that the petitioner was liable to pay the interest on late return of pensionary benefits as per the said Rule. Therefore, the impugned letter demanding interest on payment has rightly been issued.

7. Learned counsel for respondent No.3 contends that the impugned letter dated 01.03.2024 for recovery of the interest is issued in view of the letter dated 25.07.2022 issued by the Government of Punjab.



8. We have heard learned counsel for the parties and perused the whole record.

ANALYSIS OF THE RECORD

9. A perusal of the record shows that the petitioner had filed CWP-5639 of 2007 challenging the order dated 08.06.2006, whereby, the petitioner was ordered to be compulsorily retired by way of punishment. The writ petition was allowed vide judgment dated 08.08.2018. The judgment dated 08.08.2018 was challenged by the Punjab and Haryana High Court before the Hon'ble Supreme Court by way of Special Leave Petition. However, the same was dismissed vide judgment dated 07.05.2019 by the Hon'ble Supreme Court in SLP No.9689 of 2019, titled as 'Punjab and Haryana High Court Vs. Naginderjit Singh and Another.

10. Thereafter, the matter regarding implementation of the judgment dated 08.08.2018, inter alia entailing re-instatement of the officer, continuity of service throughout for the purpose of granting terminal benefits, including pension etc, was considered in Full Court meeting held on 26.07.2019 and the Committee took the following decision:-

“ Resolved that in view of the order dated 07.05.2019 of Hon'ble Supreme Court of India passed in SLP No.9689 of 2019, arising out of the judgment dated 08.08.2018 of Hon'ble Division Bench of this Court passed in CWP No.5639 of 2007, the decision dated 08.05.2006 of the Hon'ble Full Court recommending compulsory retirement of Shri Naginderjit Singh, former member of Punjab Superior Judicial



Service be recalled and recommendation be made to the Government of Punjab to withdraw its order dated 08.06.2006 regarding compulsory retirement of Shri Naginderjit Singh, former member of Punjab Superior Judicial Service, from service. He is deemed to be reinstated w.e.f 08.06.2006. It is further resolved that payment of 50% of his salary from the date of order of retirement i.e. 08.06.2006 till the date of his superannuation i.e. 31.05.2017 be made to him alongwith continuity of service throughout and he be granted terminal benefits, including pension etc. immediately.”

11. The above said order of the Full Court was conveyed to the Additional Chief Secretary to Government of Punjab, Department of Home Affairs & Justice, (Judicial-I) Branch, Chandigarh vide letter dated 29.07.2019. Reminder dated 24.09.2019 was also issued to the quarter concerned. As such respondent No.2 acted upon the judgment of Hon’ble Apex Court and decision of Full Court dated 26.07.2019 by sending letter dated 29.07.2019.

12. The petitioner was reinstated to Punjab Superior Judicial Service with effect from 08.06.2006, vide Punjab Govt. Notification dated 18.10.2019, conveyed vide Endorsement No.4/9/2019-3 Judl-1 (1)/1626 dated 05.11.2019.

13. The pay of the petitioner was re-fixed and conveyed to the District and Sessions Judge, Ferozepur vide letter dated 15.05.2020. The learned Officer was requested to draw and disburse 50% salary to the petitioner in accordance with rules/instructions on the subject.



14. Vide letter dated 18.07.2020, the learned District and Sessions Judge, Ferozepur was further informed that the suspension period with effect from 19.02.2003 to 07.06.2006 was ordered to be treated as “spent on duty”. It was further requested to draw and disburse the arrears of salary, if any.

15. Vide letter dated 08.12.2020, the learned District and Sessions Judge, Ferozepur was further informed that sanction had been accorded for an amount of Rs.16,13,411/- (Rupees Sixteen Lakhs Thirteen Thousand Four Hundred and Eleven only) on account of leave encashment in lieu of unutilized Earned Leave of 300 days and it was further requested to draw and disburse the same to the petitioner.

16. The aforesaid communication was also forwarded to the Accountant General (A&E), Punjab vide letter dated 28.08.2020 with a request to verify the calculations and authorize its payment as per rules. Thereafter, various reminders dated 04.12.2020, 08.02.2021, 26.05.2021, 29.07.2021 and 15.09.2021 were sent. Thereafter, vide letter dated 20.09.2021, Accountant General (A&E), Punjab returned the pension case of the petitioner with the following remarks:-

- (i) The above named officer has been retired compulsory on 23.06.2006 and pensionary benefits have been authorized accordingly.
- (ii) As per pay fixation made at page No.32 to 35 of Service Book, his pay has been re-fixed w.e.f 01.02.2003 to 31.05.2017 i.e. upto date of superannuation i.e. 31.05.2017, implementing the judgment in CWP-5639 of 2007 and he retired on 31.05.2017.



- (iii) Treatment of pensionary benefits i.e. Pension & DCR authorised earlier and drawn by the retiree may be intimated.
- (iv) Copy of judgment given by the Hon'ble Court alongwith speaking order of competent authority may be supplied with the case.

17. In view of the objections raised by the office of the Accountant General (A&E), Punjab, Chandigarh, the matter was placed before the authorities and in compliance with orders dated 16.11.2021, vide letter dated 25.11.2021, the Accountant General (A&E), Punjab, Chandigarh was requested to stop the pension being drawn by Sh. Naginderjit Singh, former member of Punjab Superior Judicial Services, against PPO No.226827/PB as his category and date of retirement had changed.

18. As per copy of letter dated 20.09.2021, received from the office of the Accountant General (A&E), Punjab, Sh. Naginderjit Singh, former member of Punjab Superior Judicial Services, was requested to deposit the entire amount of pensionary benefits drawn by him on his compulsory retirement w.e.f. 24.06.2006 against PPO No.226827/PB as desired in the letter at the earliest, so that the process of authorization of fresh pensionary benefits as per date of retirement i.e 31.05.2017 may be initiated (as desired vide aforesaid letter dated 20.09.2021), a copy was also endorsed to the District Treasury Officer, Punjab Treasury, Chandigarh, with the request to provide the detailed statement of entire pensionary benefits drawn by Sh.Naginderjit Singh, former member of Punjab Superior Judicial Services, w.e.f. 24.06.2006 against PPO No.226827/PB. The said officer



was further requested to return the PPO, so that the fresh pension case as per date of superannuation can be processed.

19. Thereafter, in response to this Court's letter dated 25.11.2021, the District Treasury Officer, Punjab Treasury, Chandigarh requested the Manager, State Bank of India, Sector 7-C/37, Chandigarh, to forward statement with regard to total pension drawn by Sh. Naginderjit Singh, who is drawing pension from the said bank against PPO No.226827/PB, w.e.f.25.06.2006, at the earliest, for the onward transmission to this Court.

20. Thereafter, vide letter dated 02.12.2021 Sh. Naginderjit Singh, former member of Punjab Superior Judicial Services, had requested that he had been directed to deposit the entire amount of pensionary benefits drawn by him against PPO No.226827/PB in pursuance to Clause 3 of the copy of letter Sai Penl/N-43/2006-07/724-25, dated 20.09.2021. The aforesaid letter further stated that the amount of Pensionary benefits drawn by him so far may be intimated to the office of the Accountant General (A&E), Punjab, Chandigarh and also that it was never the intent and import of the clause that he may be directed to refund the entire amount of pensionary benefits received by him so far. He had asked that the amount so received by him could be deducted from the arrears of pension/other pensionary benefits to be released after the re-fixation of pension on account of change of category. The said request of the officer had been taken up with the Accountant General (A&E), Punjab Chandigarh vide this Court's letter dated 16.12.2021.



21. Thereafter, in response to the aforesaid letter dated 16.12.2021, the Accountant General (A&E), Punjab vide reply dated 23.12.2021 again reiterated the demand for recovery of total amount of pensionary benefits (including Pension, Gratuity) drawn by the petitioner. Thereafter, vide letter dated 02.02.2022, the petitioner was requested to deposit the entire amount of pensionary benefits (including Pension, Gratuity) drawn by him so far, while forwarding letter dated 23.12.2021 received from the Accountant General (A&E), Punjab.

22. 'No Due Certificate' was issued to the petitioner on 05.10.2023 stating therein that nothing is due against the petitioner who retired from service on 31.05.2017. Thereafter on 01.03.2024 a demand has been raised from the petitioner qua interest amounting to Rs.7,38,698/- on the pensionary benefits that were recovered from him against PPO No.226827/PB in the light of the Punjab Government letter dated 25.07.2022. In letter dated 25.07.2022, a reference is made to Rule 9.13 of Punjab Civil Services Rules VOL.II for the recovery of interest on the pensionary benefits that were recovered from the petitioner.

23. **Rule 9.13 of Punjab Civil Service Rules, VOL.II is reproduced as under:-**

“9.13 Interest on delayed payment of gratuity:- (1)If the payment of gratuity has been authorised after three months from the date when its payment became due, and it is clearly established that the delay in payment was due to administrative lapse, then an interest at the rates applicable to deposits in General Provident Fund at the time payment



of gratuity became due, shall be paid to the Government employee in respect of the period beyond three months:

Provided that the delay in the payment was not caused on account of failure on the part of the Government employee to comply with the procedure laid down in this Chapter.

(2) Every case of delayed payment of gratuity shall suo motu be considered by the Administrative Department or the Department. as the case may be, and where the Administrative Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, the Administrative Department shall make a recommendation to the Department of Finance, Punjab for the payment of interest

(3) If the recommendation of the Administrative Department made under sub-rule (2) is accepted by the Department of Finance Punjab, the Administrative Department concerned shall issue sanction for the payment of interest

(4) In all cases where the payment of interest has been authorised with concurrence of the Department of Finance Punjab, the Administrative Department concerned shall fix the responsibility and take disciplinary action against the Government employee or employees concerned, who are found responsible for the delay in the payment of gratuity



(5) If as a result of Government's decision taken subsequent to the retirement of a Government employee, the amount of gratuity already paid on his retirement, is enhanced on account of

(a) grant of emoluments higher than the emoluments on which gratuity, already paid, was determined, or

(b) liberalisation in the provisions of these rules from a date prior to the date of retirement of the Government employee concerned, no interest on the arrears of gratuity shall be paid.

24. The Government of Punjab (respondent Nos. 1 and 2) has relied upon the above mentioned Rule for issuance of impugned letter dated 01.03.2024 to deposit the interest on the pensionary benefits. The above mentioned provision would not be applicable to the petitioner since it has been specifically mentioned in the same that if delay in payment of gratuity is due to administrative lapse then an interest at the rates applicable to deposits in General Provident Fund at the time of payment of gratuity shall be paid to the government employee in respect of the period beyond three months. There is a proviso to the same which states that the delay should not be caused on account of failure on the part of the government employee to comply with the procedure laid down in the Chapter. Meaning thereby Rule 9.13 specifically states that the government employee shall be paid interest on the delayed payment of gratuity by the Government i.e. if the government employee is paid gratuity beyond three months from the date when the payment became due, then the Government shall pay to the government employee the interest on the delayed payment.



Further the proviso says that if the delay of payment of gratuity is caused on account of failure on the part of government employee to comply with the procedure laid down in the Chapter then the government employee would not be entitled to the interest on delayed payment of gratuity.

25. As per the reply of respondent Nos. 1 and 2 they have applied this Rule 9.13 of Punjab Civil Service Rules VOL.II in case of the petitioner. The relevant part of the reply dated 02.09.2024 is reproduced as under:-

“6. That Rule 9.13 of Punjab Civil Service Rules Voll-II aims at protecting the financial interest of the retired employee by paying interest on such delayed amount of gratuity (pensionary benefit), if the payment of gratuity authorized after three months from the date within its payment became due. The payment of interest shall be made in case the delay in payment is due to administrative lapse. As per provision of this rule the amount of such interest shall be calculated at the rates applicable to deposits in General Provident Fund.

On this analogy, any government money retained and utilized by the government employee/pensioner for his personal use, which is not due to him/her, needs to be refunded by him/her along with the interest at the rates applicable to deposit in the General Provident Fund and vice versa. The government can rightfully ask for the refund of such amount along with the interest thereto. In this case, the government money was utilized by the petitioner for long period of time.



Accordingly, the Finance Department (Respondent No. 1) has taken a decision and advised the Department of Home Affairs and Justice (Respondent No. 2) vide letter dated 11.07.2022 that the amount of government money in the form of pensionary benefits retained and used by the petitioner from the date of his compulsory retirement, i.e., from 08.06.2006 till the date of deposit of said government money in the government treasury, an interest at the rates applicable to deposits in the General Provident Fund, as provided in Rule 9.13 of Punjab Civil Services Vol. II shall also be paid to the government.”

26. The reasoning given by respondent Nos. 1 and 2 is totally against the law since the Rule referred to by respondent Nos. 1 and 2 i.e Rule 9.13 of Punjab Civil Service Rules VOL.II, will not be applicable in case of the petitioner, since this Rule reads as ‘interest on delayed payment of gratuity’ and would be applicable only in case of the government since the government employee is not to make the payment of the gratuity.

27. Further a perusal of the sequence of events and dates as referred to above shows that since the petitioner was compulsorily retired, he challenged the order dated 08.06.2006 of compulsory retirement and his writ petition was allowed vide judgment dated 08.08.2018, which was challenged by the Punjab and Haryana High Court before the Hon’ble Supreme Court and the same was dismissed vide judgment dated 07.05.2019. Ultimately the decision was taken by the Full Court of Punjab and Haryana High Court Chandigarh on 26.07.2019 and decision of the Full Court was conveyed to Additional Chief Secretary, Department of Home



Affairs and Justice (Judicial-1) Branch, vide letter dated 29.07.2019. In the decision of Full Court as reproduced above it is stated that recommendation be made to the Government to withdraw its order dated 08.06.2006 regarding compulsory retirement of Sh. Naginderjit Singh, former member of Punjab Superior Judicial Service. It is further stated that he is deemed to be reinstated w.e.f 08.06.2006 and it was resolved that payment of 50% of his salary from the date of order of compulsory retirement i.e. 08.06.2006 till the date of superannuation i.e 31.05.2017 be made to him alongwith continuity of service throughout and he be granted terminal benefits including pension etc immediately.

28. It was the decision of respondent Nos. 1 and 2 itself that the petitioner was asked to deposit the entire amount of pensionary benefits drawn by him on his compulsory retirement w.e.f 24.06.2006 vide letter dated 20.09.2021 issued by the Accountant General (A&E), Punjab (respondent No.4) and there was no direction either by any court of law or by the Full Court of Punjab and Haryana High Court.

29. Vide letter dated 25.11.2021, the District Treasury Officer, Punjab Treasury, Chandigarh requested the Manager, State Bank of India, Sector 7-C/37, Chandigarh to forward statement with regard to the total pension drawn by the petitioner by giving his PPO No.226827/PB w.e.f. 25.06.2006. Thereafter the petitioner vide letter dated 02.12.2021, requested the respondent to take the amount from the arrears of pension/other pensionary benefits to be released after the re-fixation of pension on account of change of category. The request of the petitioner was denied and he was asked to deposit the amount of pensionary benefits received by him. The petitioner returned the whole amount and was issued 'No Due Certificate' dated 05.10.2023.



30. A perusal of the whole record shows that there is no lapse on the part of the petitioner throughout that he should be made liable to pay the interest. Rather, as per the language of Rule 9.13, the delay in payment was due to administrative lapse of respondent Nos. 1 and 2.

31. The petitioner was wrongly compulsorily retired which is proved by the factual position that this Court vide judgment dated 08.08.2018 set aside the impugned order dated 08.06.2006 vide which he was ordered to be retired compulsorily from the service. C.W.P No.5639 of 2007 was allowed on 08.08.2018. The relevant portion of the judgment is reproduced as under :-

- (i) CWP No.5639 of 2007 is allowed.
- (ii) The impugned order dated 08.06.2006 as well as the findings by the Enquiry Officer in the departmental enquiry are quashed and set aside.
- (iii) The respondents shall make payment of 50% salary of the petitioner from the date of order of retirement till the date of his superannuation and shall also grant him continuity of service throughout for the purpose of granting terminal benefits, including pension etc. within a period of six months from the date of obtaining certified copy of the present judgment.

32. SLP No.9689 of 2019 filed by the Registrar General, Punjab and Haryana High Court, Chandigarh against the judgment dated 08.08.2018, was also dismissed by the Hon'ble Supreme Court of India vide judgment dated 07.05.2019. Thereafter, the Full Court of this Court on 26.07.2019 directed the Government of Punjab to recall and withdraw its order dated 08.06.2006 regarding compulsory



retirement of Sh. Naginderjit Singh, former member of Punjab Superior Judicial Services.

33. A perusal of the above shows that the petitioner was compulsorily retired on 08.06.2006, which was assailed by him in CWP No.5639 of 2007 and his writ petition was allowed vide judgment dated 08.08.2018. This Court set aside the order dated 08.06.2006 as well as finding by the Enquiry Officer in the departmental enquiry and directed the respondents to make the payment of 50% salary of the petitioner from the date of order retirement till the date of his superannuation and further directed that the petitioner shall also be granted continuity of service throughout for the purpose of granting terminal benefits including pension etc within a period of six months from the date of obtaining certified copy of the judgment.

Meaning thereby the judgment of this Court was to be complied with by the respondents within a period of six months from the date of obtaining certified copy of the judgment.

34. The certified copy of the judgment dated 08.08.2018 was received on 13.11.2018. Six months from 13.11.2018 would end on 14.05.2019 i.e. the respondents were to grant the benefits as per judgment dated 08.08.2018 to the petitioner by 15.05.2019.

35. Though the judgment dated 08.08.2018 was challenged before the Hon'ble Supreme Court, but the same was dismissed vide judgment dated 07.05.2019. Therefore, the directions given by this Court were not complied by the respondents within the time limit granted by this Court.



36. Since the petitioner superannuated on 31.05.2017 and the judgment of this Court is dated 08.08.2018, as per Rule 9.13 of Punjab Civil Services Rules VOL-II, the payment of gratuity is to be paid to the government employee within three months from the date of retirement and if there is delay on the part of government and the gratuity is paid beyond three months then the government employee is entitled for the interest on the delayed payment. In the present case though the petitioner superannuated on 31.05.2017, but since due to pendency of his challenge to the compulsorily retirement order dated 08.06.2006, which was decided on 08.08.2018 his period for the purposes of Rule 9.13 would start from 08.08.2018, which this Court made to six months yet the same was not paid to the petitioner within the time limit granted by this Court. Even for that matter we take further period of challenge to the judgment dated 08.08.2018 by the respondents, the Hon'ble Supreme Court dismissed the appeal filed by the respondents on 07.05.2019. Still the respondents did not comply with the judgment dated 08.08.2018, which was affirmed by the Hon'ble Supreme Court on 07.05.2019, which rather amount to contempt of Court. This further amounts to harassment of the petitioner at the hands of respondents due to unnecessary procedure/departmental formalities.

37. A perusal of the record shows that when the petitioner was compulsorily retired vide order dated 08.06.2006, he was granted pension which was deposited by the respondents in the account of the petitioner and since that order of compulsorily retirement dated 08.06.2006 was set aside by this Court and the petitioner superannuated on 31.05.2017, when the pensionary benefits were to be paid to the petitioner after his case of compulsory retirement ultimately decided



by Hon'ble Supreme Court vide judgment dated 07.05.2019, the Finance Department vide letter dated 25.07.2022 stated that the pension was received by the retired officer before the time, without realisation of the fact that it was deposited by the respondents itself in his account, which was returned back by him and he was granted 'No Due Certificate' that too because of the formality of the Accountant General Office with respect to the change of category of the petitioner. Even after facing so much of litigation till date pensionary benefits are not granted to the petitioner and the respondents are asking for the interest on the delayed payment from the petitioner which order itself is bad in the eyes of law.

38. In view of the above discussion and in view of Rule 9.13 of Punjab Civil Services Rules, VOL.II, respondent Nos. 1 and 2 are directed to pay the interest @9% on the delayed payment of pensionary benefits to the petitioner.

39. In view of the above, the present writ petition is allowed and the impugned letter dated 01.03.2024 is set aside and quashed.

40. Pending application(s), if any, also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

September 23, 2024
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Whether speaking/reasoned:	Speaking
Whether reportable:	Yes / No