

2026:PHHC:100553



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

RSA-1359-2007

Date of Decision: July 22, 2026

PARAMJIT SINGH

.....Appellant

Versus

P.S.E.B. AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Naresh Kaushik, Advocate for the appellant.

Mr. Ishaan Sharma, Advocate for the respondents.

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**HARKESH MANUJA, J. (ORAL)**

1. Present Regular Second Appeal has been preferred by the plaintiff-Paramjit Singh assailing the judgment and decree dated 15.12.2006 passed by the learned District Judge, Kapurthala (hereinafter referred to as "*the First Appellate Court*"), whereby Civil Appeal No.79 of 2006 preferred by the respondent/defendant-Punjab State Electricity Board and its functionaries (hereinafter referred to as "*the Board*") was allowed and Civil Appeal No.101 of 2006 preferred by appellant/plaintiff-Paramjit Singh seeking enhancement of interest was dismissed. Consequently, the judgment and decree dated 06.06.2006 passed by the learned Additional Civil Judge (Senior Division) Phagwara (hereinafter referred to as the "*trial Court*"), decreeing the suit in favour of the plaintiff was set aside and the suit dismissed.

2. Brief facts necessary for adjudication of the present appeal are that the plaintiff served with the Board for about 31 years and retired from service on 30.04.1998. Prior thereto, FIR No.69 dated 05.08.1997 under the Prevention of Corruption Act, 1988 (hereinafter referred to as the "*1988 Act*") was registered against him. Owing to the pendency of the criminal case, only provident fund

and ~~pro~~ provisional pension were released to the plaintiff upon his retirement,

whereas gratuity, leave encashment, last pay, commuted pension and 23 years' service benefit were withheld. The plaintiff was acquitted by the learned Special Judge, Amritsar on 01.04.2003. Thereafter, upon receipt of information from the Punjab Government that no appeal had been preferred against the order of acquittal, the withheld retiral benefits were released to the plaintiff. However, no interest on account of the delayed release of the said benefits was paid.

Against the aforesaid backdrop, being aggrieved by the non-payment of interest, the plaintiff instituted a civil suit with the following prayer:

*“seeking recovery of Rs.3,70,500/- as interest incurred on leave encashment of Rs. 1,28,180/- for 64 months-18days interest at the rate of 12% per annum i.e. Rs. 82,500/-, Gratuity amount of Rs.1,98,679/- for 64 months-6 days interest at the rate of 12% P.A. i.e. 1,27,200/-, last pay Rs.14,247/- for 64 month 26 days 12% per annum i.e. 10,000/-, commuted pension Rs. 2,16,972/- for 65 months-14 days at the of 12% P.A. 1.8. Rs. 1,41,800/-, 23 years service benefit Rs. 14,819/- for 68 months 14 days at the rate of 12% per i.e. Rs. 9,000/- and interest incurred up to date with costs.”*

In the written statement, while admitting the material facts, the defendants pleaded that withholding of the retiral benefits during the pendency of the criminal proceedings was permissible under the applicable service regulations and, therefore, the plaintiff was not entitled to any interest thereon. It was further pleaded that immediately upon the plaintiff's acquittal, all the withheld retiral benefits had been released. Preliminary objections regarding limitation, maintainability, locus standi and non-service of notice under Section 80 CPC were also raised.

3. Replication was filed by the plaintiff reiterating his version set up in the plaint.

4. Upon consideration of the pleadings, the learned trial Court framed the following issues:-

- “1. Whether the plaintiff is entitled to recovery of amount, as prayed for in the plaint? OPP*
- 2. Whether the suit is within time? OPP*
- 3. Whether the plaintiff had served the defendants with notice under Section 80 CPC? OPP*
- 4. Whether the plaintiff has no locus standi to file the suit? OPD*
- 5. Relief.”*

5. Upon appreciation of the pleadings and evidence led by the parties, the learned trial Court, vide judgment and decree dated 06.06.2006, decreed the suit and held the plaintiff entitled to interest at the rate of 6% per annum on the amounts of gratuity, leave encashment, last pay, commuted pension and 23 years' service benefit from the date the said amounts became due till the date of their actual payment.

6. Aggrieved by the judgment and decree passed by the learned trial Court, both parties preferred separate appeals. The defendant-Board filed Civil Appeal No.79 of 2006 challenging the decree, whereas the plaintiff preferred Civil Appeal No.101 of 2006 seeking enhancement of the rate of interest from 6% to 12% per annum. Vide common judgment dated 15.12.2006, the learned First Appellate Court allowed the appeal preferred by the Board and dismissed that of the plaintiff. Consequently, the judgment and decree passed by the learned trial Court were set aside and the suit was dismissed. Hence, the present Regular Second Appeal.

#### **CONTENTIONS RAISED ON BEHALF OF THE APPELLANT**

7. Learned counsel for the appellant contends that although the appellant retired from service on 30.04.1998, his retiral benefits were released to him only between November, 2003 and March, 2004 without payment of interest. Ld. counsel further contends that the ld. First Appellate Court erroneously

interpreted Rule 8.22(aa) of the Punjab State Electricity Board Main Service Regulations, 1972 Vol-I Part-I read with Rule 2.2 of the Punjab Civil Services Rules by holding that the appellant was not entitled to interest, whereas the said provisions merely authorised withholding of certain retiral benefits during the pendency of the criminal proceedings and did not preclude payment of interest after the appellant's acquittal. It is further argued that neither any order passed by the competent authority directing withholding of the retiral benefits or denying interest was ever produced on record, nor was any departmental proceeding or recoverable amount pending against the appellant. Learned counsel thus submits that withholding of the retiral benefits was arbitrary and unjustified; as such the employee is entitled to the grant of interest @ 12% as compensation for the deprivation of the use of his money

### **CONTENTIONS RAISED ON BEHALF OF THE RESPONDENTS**

8. On the contrary, learned counsel for the respondent submits that the judgment and decree dated 15.12.2006 passed by learned first Appellant Court was based on proper appreciation of pleading and evidence available on record and thus no interference was called for in the impugned judgment and decree.

9. Vide order dated 02.09.2008, this Court while admitting the appeal framed following substantial question of law:

*“Whether Regulation 8.22(aa) would enable the respondents to deny interest to the appellant as the criminal case pending against the appellant did not relate to recovery?”*

### **FINDING/REASONING**

10. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made on behalf of the appellant-plaintiff.

11. The facts giving rise to the present controversy are largely undisputed. The appellant retired from service on 30.04.1998. Prior thereto, on 05.08.1997, FIR No.69 was registered against him under Sections 7, 13(1) read with Section 13(2) of the 1988 Act at Police Station, Vigilance Bureau, Jalandhar. The appellant was acquitted by the competent Court vide judgment dated 01.04.2003. Thereafter, the withheld retiral benefits were released between November, 2003 and March, 2004. The dispute in the present appeal is confined to the appellant's claim for interest on account of the delayed release of the said retiral benefits. The factum of delay in the release of the retiral benefits, as borne out from the record, is as under:

|    | Entitled amount/ Retiral benefits                                  | Delayed period<br>Months-Days | Interest @ 12% |
|----|--------------------------------------------------------------------|-------------------------------|----------------|
| 1. | Gratuity: Rs. 1,98,679/-<br>(payment made on 6.11.2003)            | 64--06                        | Rs.1,27,200/-  |
| 2. | Leave Encashment:<br>Rs.1,28,780/-<br>(payment made on 19.11.2003) | 64--18                        | Rs.82,500/-    |
| 3. | Last pay 4/98: Rs.14,347/-<br>(payment made on 27.11.2003)         | 64--26                        | Rs.10,000/-    |
| 4. | Commuted Pension:Rs.2,10,872<br>(payment made on 15.12.2003)       | 65--14                        | Rs.1,41,800/-  |
| 5. | 23yrs Serv. Benefit:<br>Rs.14819/-<br>(payment made on 15.03.2004) | 68--14                        | Rs.9,000/-     |

12. The controversy in the present appeal essentially turns upon the scope of Rule 8.22(aa) of the Punjab State Electricity Board Main Service Regulations, 1972 and Rule 2.2 of the Punjab Civil Services Rules. The learned Trial Court and the learned First Appellate Court have assigned different interpretations to the aforesaid provisions while deciding the appellant's claim for interest. It would, therefore, be appropriate to first examine the said provisions. The same are reproduced hereunder for reference:

12.1 **Regulation 8.22(aa) of the Punjab State Electricity Board Main Service Regulations, 1972**

*Notwithstanding anything contained in Sub-Regulation (a) the authority competent to grant leave may withhold whole or part of cash equivalent of earned leave in the case of Board employee who retires from service on superannuation while under suspension or while disciplinary or criminal proceedings are pending against him, if in the opinion of such authority, there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him and on conclusion of the proceedings, he will become eligible to the amount so withheld after adjustment of Board dues, if any.*

A plain reading of the aforesaid Rule shows that it merely empowers the competent authority to withhold the cash equivalent of earned leave where a Board employee retires while under suspension or while disciplinary or criminal proceedings are pending against him, provided there exists a possibility of some amount becoming recoverable from him upon conclusion of such proceedings. The Rule further stipulates that on conclusion of the proceedings, the employee shall become entitled to the amount so withheld after adjustment of the Board dues, if any. Significantly, the Rule neither creates a permanent embargo on release of the retiral benefits nor provides that interest shall not be payable in the event of delayed release thereof.

12.1.1 In the present case, the appellant stood acquitted by the competent criminal Court on 01.04.2003. It is not the case of the respondents that any departmental proceedings were pending thereafter or that any amount was recoverable from the appellant. Consequently, the contingency envisaged under Rule 8.22(aa) stood exhausted upon the appellant's acquittal, and there remained no justification for withholding the benefits of leave encashment.

12.2 Further, learned First Appellate Court observed under Rule 2.2(c)(1) of the Punjab Civil Services Rules, where judicial or departmental proceedings are pending on the date of retirement, only provisional pension is payable and gratuity remains liable to be withheld till the conclusion of the proceedings and passing of final orders. In this regard, relevant portion of the said rule is reproduced hereunder:

*(c) (1) Where any departmental or judicial proceeding is instituted under clause (b) of rule 2.2 or where a departmental proceeding is continued under clause (i) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceedings, final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement or if he was under suspension on the date of retirement up to date immediately proceeding to the date on which he was placed under suspension; but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and of final orders thereon.*

*The gratuity, if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of final orders by the competent authority.*

A plain reading of Rule 2.2(c)(1) of the Punjab Civil Services Rules makes it evident that where departmental or judicial proceedings are pending on the date of retirement, the competent authority is empowered to withhold the payment of gratuity till the conclusion of such proceedings and the passing of

final orders thereon. However, the said provision merely regulates the *disbursement* of gratuity during the pendency of the proceedings. It does not contain any express bar against the grant of interest in an appropriate case. The object of the rule is to secure the employer's interest pending adjudication and not to deprive a retired employee, who ultimately becomes entitled to gratuity, of compensation for the delayed receipt of his retiral dues. Therefore, while the respondents may have been justified in withholding the payment of gratuity during the pendency of the criminal proceedings, once the appellant became entitled to the gratuity, he cannot be denied interest on the delayed payment.

12.2.1 In the present case, the appellant ultimately stood acquitted and thereby became entitled to the gratuity withheld by the respondents. Such entitlement relates back to his retirement, the withholding having been only provisional and contingent upon the outcome of the proceedings. Consequently, while the respondents were empowered under Rule 2.2(c)(1) to defer the release of gratuity, they cannot avoid their liability to compensate the appellant for the delay in its payment once his entitlement stood crystallised. The learned First Appellate Court, therefore, fell in error in treating Rule 2.2(c)(1) as an absolute bar to the grant of interest and in declining the appellant's claim on that basis.

13. Further, the issue in hand also stands authoritatively settled by the Full Bench of this Court in ***A.S. Randhawa v. State of Punjab ( 1997(3) SCT 468)***, wherein it was held that pension and other retiral benefits are valuable rights of a retired employee and that delayed disbursement thereof ordinarily entitles the employee to interest. The relevant observations are reproduced hereunder:

*“4. It is by now well settled by a catena of judgments of the Apex Court approving the view expressed by this court that pension payable to a retired Government servant is no longer a bounty*

*which is payable on the sweet will and pleasure of the government. It has been held to be a valuable right which flows to such an employee by virtue of the rules which governed his employment. Reference in this regard be made to **Deokinandan Prasad v. State of Bihar and others, AIR 1971 Supreme Court 1409** wherein their Lordships of the Supreme Court expressed this view. The learned Judges after referring to the material provisions in the pension rules further held that the grant of pension did not depend upon an order being passed by the authorities to that effect. It may be that for the purposes of quantifying the amount having regard to the period of service and other allied matters, it may become necessary for the authorities to pass an order to that effect but the right to receive pension flows to the Government servant not because of the said order but by virtue of the rules which have a statutory force. The same view was expressed by the Supreme Court in **State of Punjab v. Iqbal Singh - (sic) v. M. Padmanabhan Nair, AIR 1985 Supreme Court 356** the Supreme Court reiterated its earlier view and it will be of interest to quote the following observations from this judgment :-*

*"Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."*

*Thus, a right to pension has been held to be a right in property and till the Constitution (Forty Fourth Amendment) Act, 1978 was brought into force, property right was a fundamental right under Article 19(1)(f) of the Constitution. After the enforcement of the said amendment, property right is no longer a part of fundamental right and has been provided for as a constitutional right in Article 300-A and in terms thereof no person can be deprived of his property save by authority of law.*

*5. A learned Single Judge of this Court in **D.K. Yadav v. J.M.A. Industries Limited, 1993(3) RSJ 696 : 1993(3) SCT 537 (SC)** has held that the right to life as enshrined in Article 21 of the Constitution is wide enough not only to include the right of employment as part of right to life but also the incidental right to pension.*

*.....*

*8. 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%.”*

14. Likewise, this Court in ***J.S. Cheema Vs. State of Haryana and others (2014(13) RCR (Civil) 355)***, has held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification.

*“5. In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is laying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”*

15. Further, in the case of ***Tahazhathe Purayi Sarabi v. Union of India*** reported as ***2011 (7) RCR (Civil) 27***, the Hon’ble Supreme Court reiterated that interest is compensatory in nature and is ordinarily payable where a person is deprived of the use of money lawfully due to him. Relevant portion is reproduced hereunder:

*“17. The Courts are consistent in their view that normally when a money decree is passed, it is most essential that interest be granted for the period during which the money was due, but could not be*

*utilised by the person in whose favour an order of recovery of money was passed. As has been frequently explained by this Court and various High Courts, interest is essentially a compensation payable on account of denial of the right to utilise the money due, which has been, in fact, utilised by the person withholding the same. Accordingly, payment of interest follows as a matter of course when a money decree is passed. The only question to be decided is since when is such interest payable on such a decree. Though, there are two divergent views, one indicating that interest is payable from the date when claim for the principal sum is made, namely, the date of institution of the proceedings till the recovery of the amount, the other view is that such interest is payable only when a determination is made and order is passed for recovery of the dues. However, the more consistent view has been the former and in rare cases interest has been awarded for periods even prior to the institution of proceedings for recovery of the dues, where the same is provided for by the terms of the agreement entered into between the parties or where the same is permissible by statute*

15.1. It is true that the aforesaid decision pertains to the grant of interest on a money decree. Nevertheless, an analogy may appropriately be drawn to the present case, for the underlying principle is one of general application. Whether the amount represents a decretal sum or retiral benefits, the person entitled thereto suffers the same deprivation when he is denied the use of money lawfully due to him. Retiral benefits accrue on retirement and are intended to provide immediate financial security to a retired employee. Consequently, where their release is delayed, the retiree remains deprived of the use and enjoyment of such money throughout the period of delay. Interest, in such circumstances, is not imposed by way of penalty but is awarded as compensation for the loss occasioned by the deprivation of the use of money which had become payable. Therefore, once the employee was ultimately entitled to the retiral benefits, the compensatory principle governing the award of interest must operate from the date such benefits became due on retirement and cannot be confined merely to the date on which the criminal proceedings culminated in acquittal. The principle

that interest ordinarily follows delayed payment of money due is, therefore, equally attracted to delayed disbursement of retiral benefits

16. In view of the foregoing factual and legal discussion, the present appeal stands allowed while setting aside the judgment and decree dated 15.12.2006 passed by the learned First Appellate Court. The appellant/plaintiff shall be entitled to interest @ 9% on the delayed payment of Leave Encashment, gratuity, commutation of pension, last pay amount and 23 years service benefits w.e.f 30.06.1998 (i.e. after two months from the date of retirement of the appellant-plaintiff). The respondents are directed to release the same within a period of 02 months from the date of receipt of certified copy of this order.

17. Pending miscellaneous applications if any, shall also stand disposed of.

22.07.2026  
Tejwinder

(HARKESH MANUJA)  
JUDGE

|                                  |               |
|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |