

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

**CWP No. 9013 of 2013
Date of decision: 9.02.2015**

Narinder Singh

.....Petitioner

versus

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr. Justice Amol Rattan Singh

Present: Mr. Inderjit Sharma, Advocate
for the petitioner.

Mr. Roopan Aggarwal, DAG, Punjab.

Mr. I.S.Sidhu, Advocate
for respondent NO. 2.

Amol Rattan Singh, J.(Oral)

The petitioner seeks release of ₹ 50,000/- of the amount of gratuity stated to be due to him when he retired from service on 31.08.2012, which was withheld allegedly because the petitioner had made a short fall deposit of ₹ 1,200/- in the year 2002, after having withdrawn ₹ 10,000/- for some official purpose but having deposited only ₹ 8,800/-.

Firstly, it is candidly admitted by both the learned counsel for the respondents, that no show cause notice or charge sheet was ever served upon the petitioner with regard to any embezzlement made by him. Secondly, it is also not denied that the petitioner, in the year 2007 had deposited a cheque of ₹ 1,200/- by way of the aforesaid short fall and in that year itself, the cheque was admittedly encashed by the respondent municipality.

In view of the above, it is not understood, especially as no disciplinary proceedings were ever initiated against the petitioner, as to on

what basis ₹ 50,000/- can be withheld from the amount due to him by way of gratuity.

Both the learned counsel for the respondents submitted that as per Rule 17.18(2) of the Punjab Municipal Account Code, 1930, cases involving embezzlement of more than ₹ 1,000/-, the matter would be reported to the police (and an FIR registered), after the Examiner, Local Fund Accounts, Punjab, had inquired into the matter and satisfied himself that there does exist a case of embezzlement.

However, despite the fact that the audit objection with regard to the short fall came in the year 2005, it is admitted that no FIR has ever been registered till date.

In view of the above, and keeping in view that about 10 years have gone by, I do not see how the said amount of gratuity can be withheld and full pension as due to him will not be payable to the petitioner, without any disciplinary proceedings ever having been initiated against him.

Consequently, this petition is allowed and the respondents are directed to release the amount of ₹ 50,000/- withheld from the gratuity of the petitioner, immediately forthwith, as also to release his entire pension, as due to him by way of regular pension rather than provisional pension. However, no interest is being awarded in the circumstances.

9th February, 2015
Shivani Kaushik

[AMOL RATTAN SINGH]
JUDGE