

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
Sr. No.: 241

Civil Writ Petition No.19056 of 2016
Date of Decision: October 25, 2017

RAM NIWAS NAGPAL

..... PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

..... RESPONDENTS

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. Surender Singh Dalal, Advocate,
for the petitioner.

Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.

. . .

Jaspal Singh, J

1. By virtue of this civil writ petition, preferred under Articles 226/227 of the Constitution of India, petitioner has sought issuance of writ, directing the respondents to release the balance amount of gratuity amounting to ₹52,000/- along with interest @ 18% per annum.
2. Undisputably, petitioner stood retired as Tehsildar (Sales) on attaining the age of superannuation on May 31, 2012.
3. A glance at the written statement dated May 12, 2017 filed on behalf of respondents No.1 and 2 transpires that the petitioner was chargesheeted in two departmental enquiries under Rule 2.2 (b) of Civil Services Rules, Volume II. Therefore, as per Rule 9.15 Provision 2 of Rule 11.3 of Civil Services Rules, Volume II, the balance amount of gratuity i.e.

₹52,000/- (Computer/Scooter Advances) was not released to the petitioner on account of aforesaid pending inquiries against him. The relevant provision of Rule 9.15(1) (6) and provision 2 of Rule 11.3 for not releasing the aforesaid amount on account of Computer/Scooter Advance from the amount of gratuity, is reproduced as under:-

“9.15(1) (c) - No gratuity shall be paid to the Government employee until the conclusion of the departmental or judicial proceedings and issue of final order thereon.

Proviso 2 of Rule 11.3 - Provided further that a Government employee against whom judicial or a departmental proceeding has been instituted or a pensioner against whom any such proceeding has been instituted or continued under rule 2.2 (b) ibid, shall not be permitted to commute any part of his pension during the pendency of such proceedings.”

4. After the finalization of the aforesaid two inquiries which were pending against the petitioner, the Accountant General, Haryana has released the withheld amount of ₹52,000/- vide its letter dated February 27, 2017 in favour of the petitioner. Petitioner has also been informed in this regard vide letter dated March 06, 2017.

5. As far as the amount on account of balance of gratuity is concerned, instant petition has rendered infructuous.

6. In the present case, the only issue which survives is interest on the delayed payment of withheld amount. It is a settled principle that grant of interest on the delayed payment is on account of the fact that retiree was unable to enjoy its fruits immediately on his retirement and then a right accrues to him to be compensated and the only way to compensate him is to pay interest for the period of delayed payment. Now, a question arises as to

the period in which the retiral benefits should be disbursed to the retiree/family of deceased employee.

7. Taking into consideration the facts & circumstances of the case in hand, this Court is of the view that grant of interest @ 9% per annum, on the delayed payment of balance amount of gratuity after expiry of three months from the date of retirement till the actual payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment(s) w.e.f. September 01, 2012 to actual date of payment, which shall be paid by the respondents after calculating the same within a period of one month from the date of receipt of a certified copy of this judgment.

8. Disposed of accordingly.

October 25, 2017

Sham/Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**