

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

CWP No. 2109 of 2016 (O&M)
Date of Decision: 30.05.2017

JAGDISH CHANDER WADHWA

...Petitioner

Vs.

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. M.K. Sajjan, Advocate,
for the petitioner.

Mr. Anshul Gupta, AAG, Punjab.

Mr. Sandeep Saini, Advocate,
for Mr. Alok Jain, Advocate,
for the respondent No. 3.

KULDIP SINGH, J (ORAL)

The petitioner, who retired as Executive Officer, from Municipal Council, Fazilka on 30.11.2009, has invoked the writ jurisdiction under Article(s) 226/227 of the Constitution of India praying for issuance of writ in the nature of mandamus for directing respondents to grant interest @ 18% per annum on the delayed payment of gratuity in respect of the petitioner.

Heard.

It comes out that earlier, the petitioner had approached this Court by way of *CWP No. 28386 of 2013* which was disposed of vide order dated 20.12.2013 with a direction to the respondents to decide the representation of the petitioner within two months. As the respondents did not decide the representation of the petitioner within specified time, feeling aggrieved, the petitioner has filed contempt petition bearing No. *COCP No. 1777 of 2014* against respondent No. 1 before this Court.

It comes out that during the pendency of the said contempt petition, gratuity of the petitioner was released vide order dated 05.02.2015.

CWP No. 2109 of 2016 (O&M)

Thereafter, vide order dated 08.12.2015 (*Annexure P-4*) passed by this Court, in the contempt petition, liberty was granted to the petitioner to avail appropriate remedy regarding interest on delayed payment of gratuity. This is how the petitioner has filed the present writ petition.

Respondent Nos. 1 and 2 in the reply have taken the stand that the gratuity was withheld on account of the pendency of charge-sheet served upon the petitioner on 30.04.2009 i.e. before his retirement and a specific order dated 11.12.2009 (*Annexure P-1*) for withholding of the gratuity, was passed. The enquiry report was submitted on 16.08.2013 and after completion of formalities, show cause notice was issued to the petitioner. The enquiry proceedings were finally completed on 05.02.2015 by imposing a penalty of 5% cut in pension of the petitioner for the period of three years. The gratuity ₹7,75,057/- was also released vide said order dated 05.02.2015.

I am of the view that respondent-department was competent to withhold the gratuity till the completion of the departmental proceedings and the specific order for withholding the gratuity was passed on 11.12.2009 (*Annexure P-1*). Thereafter, immediately on completion of the departmental proceedings, gratuity was released. Therefore, the petitioner is not entitled to any interest on the alleged delayed payment of gratuity.

In view of the foregoing discussion, present petition stands dismissed.

May 30, 2017

Suresh Kumar

(KULDIP SINGH)
JUDGE

***Whether speaking / reasoned* :**

✓

Yes / No

***Whether Reportable* :**

✓

Yes / No