

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

Sr. No.206

Civil Writ Petition No.4431 OF 2014
DECIDED ON: November 21, 2017

HARISH KUMAR

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Anupam Bhardwaj, Advocate,
for the petitioner.

Ms. Jasleen Kaur Sidhu, Assistant Advocate General, Punjab.

JASPAL SINGH, J. (ORAL)

By virtue of the instant civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought the issuance of a writ in the nature of Certiorari quashing the order dated February 20, 2013 (P-5) whereby the gratuity payable to the petitioner has been withheld by the respondents with further issuance of a writ in the nature of mandamus directing the respondents to release the gratuity and pension along with interest @ 18% per annum.

2. The contention of learned counsel for the petitioner is that petitioner stood retired as Sub Divisional Officer (SDO) from the O/o Executive Engineer, Madhopur Division, UBDC, Irrigation and Canal

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Department, Gurdaspur on August 31, 2012 on attaining the age of superannuation. On the day of his retirement, No Dues Certificate was issued to him showing that nothing was due and recoverable from him. In this regard, learned counsel for the petitioner has referred to the letter No.3101/12-E dated August 31, 2012 (P-7). Not only this, even the Death-cum-Retirement Gratuity along with pension was received through letter of Accountant General, Punjab, Chandigarh letter No.pen.07/2181319086/2013-14/PF.13/10/80035552 dated May 22, 2013, which was sanctioned vide office letter No.1617-19/pension case dated May 31, 2013 and bill No.162 dated June 16, 2013 for the payment of gratuity had been submitted in the Treasury Officer, Gurdaspur for payment. But to the utter surprise, in the meantime, on the basis of letter No.4020-21/41-A dated July 08, 2013 written by the Executive Engineer, Jandiala Division, UBDC, Amritsar, the payment of gratuity was stopped/withheld and intimation in this regard was sent to the District Treasury Officer, Gurdaspur. It was pointed out in the aforesaid letter that a sum of Rs.57,62,436.50 is outstanding in the name of Sh. Harish Kumar, SDO retired in Public Works as Misc. Advance. But here it would be pertinent to mention that sanction was accorded by the Accountant General, Punjab for grant of gratuity on the recommendations of the pension and gratuity papers by the Department concerned, which was further forwarded to District Treasury Officer, Gurdaspur for disbursement thereof. But on the basis of some letter written by the Executive Engineer, Jandiala Division, UBDC, Amritsar, all the proceedings with regard to disbursement of gratuity have been stalled and Executive Engineer cannot act over and above the orders passed by the Appointing and Punishing Authority and further approved by the Accountant General, Punjab.

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Moreover, as per letter No.3101/12-E dated August 31, 2012 (P-7), nothing was due against him and No Dues Certificate was also issued by the Department concerned. It would also important to note here that no proceedings under Rule 2.2 (b) or any other provision for the alleged recovery of the amount referred to above have so far been initiated. The petitioner retired almost more than five years ago and under the rules it otherwise appears to be difficult for passing any such order. The authorities are sitting over the matter without any reason.

3. Accordingly, it is observed that withholding of the gratuity by the respondents is a clear violation of the principles of natural justice. The impugned order dated February 20, 2013 (P-5) as far as it relates to withholding of the amount of gratuity is concerned is set aside.

4. As a net result of the aforesaid discussion, instant petition is partly allowed with a direction to release the amount of gratuity and pension within a period of two months from the date of receipt of certified copy of this order that too, along with interest @ 9% after the expiry of three months from the date of retirement of the petitioner till the actual payment.

5. Disposed of .

November 21, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes
Yes/No**