

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

CWP No. 7396 of 2016 (O&M)

Date of Decision: 17.05.2017

CHAND RAM

...Petitioner

VS.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Harish Nain, Advocate,
for the petitioner.

Mr. Apoorv Garg, DAG, Haryana.

KULDIP SINGH, J (ORAL)

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India praying for issuance of writ in the nature of certiorari for setting aside the order dated 31.03.2016 (*Annexure P-6*) passed by respondent No. 4 whereby claim for releasing the gratuity and leave encashment made by the petitioner has been rejected. The prayer has also been made for issuance of writ of mandamus for directing respondents for release the payment of gratuity, leave encashment and other retiral benefits alongwith interest.

Brief facts of this case are that the petitioner, who was working as JBT Teacher since 13.05.1979, was booked in an FIR No. 121 dated 07.06.2006 under Sections 148, 149, 307, 302, 323, 324 of IPC and Sections 27, 54, 59 of the Arms Act. He retired from service on 31.12.2008. Since, an FIR was pending, his gratuity and leave encashment was withheld by the respondent-department. However, after his retirement, the petitioner has been convicted and sentenced under Section 304, Part II, IPC vide judgment of conviction dated 21.03.2014 and order dated 25.03.2014 for sentence,

sentenced to undergo rigorous imprisonment for 7 years alongwith fine. It comes out that appeal against the said judgment and order of conviction is pending.

The prayer of the petitioner is that since the department proceedings have been concluded, therefore, gratuity should be released to him. However, learned counsel for the petitioner states that leave encashment has already been released in the year 2009.

The respondent-department has withheld the gratuity of the petitioner under Rule 9.15 of the Punjab Civil Services Rules, Volume-II, Chapter 9, as applicable to Haryana State. Under the said Rule, gratuity can be withheld until the conclusion of departmental or judicial proceedings and issuance of final order thereon.

Since, in this case judicial proceedings have already been concluded, therefore, even if an appeal against the judgment/order of sentence/conviction, is pending or assumed to have been dismissed, respondent-department cannot withheld his gratuity.

It being so, the respondents are directed to release the payment of gratuity to the petitioner along with interest @ 9% per annum till its actual payment.

The petition stands allowed.

May 17, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

		✓	
<i>Whether speaking / reasoned</i>	:	Yes	/ No
			✓
<i>Whether Reportable</i>	:	Yes	/ No