

CWP No. 9756 of 2016 (O&M)
Date of Decision: 18.05.2017

...Petitioner

...Respondents

Brief facts of this case are that the petitioner retired from service as Junior Assistant on 30.11.2014. It comes out that before his retirement he was served with a charge-sheet on 15.10.2014 (*Annexure P-1*), wherein he was alleged to have caused a loss to the Government to the extent of ₹43,376/- on account of interest. In the charge-sheet, the petitioner was ultimately exonerated on 09.07.2015 and the gratuity amounting to ₹8,05,220/- was released on 06.10.2015. The claim of the petitioner is for interest on the delayed payment of gratuity.

I have heard the learned counsel for both the parties and have carefully gone through the case file.

On behalf of the State, it is stated that since, charge-sheet was pending against the petitioner, therefore, the State is competent to withhold his gratuity. The said charge-sheet was decided on 09.07.2015 and the payment was released within three months from date of order of exoneration.

I am of the view that in the charge sheet the allegations are regarding causing loss to the tune of ₹43,376/- only and for this particular amount, entire gratuity of the petitioner to the tune of ₹8,05,220/- was withheld. I am also of the view that though, the State is competent to withhold gratuity when charge sheet is served upon him but under the garb of Rules, proportionate gratuity should have been withheld. Hence, there is no justification in withholding the entire amount of gratuity of ₹8,05,220/- by the respondents. Therefore, the respondents are liable to pay interest on the delayed payment of the gratuity beyond ₹43,376/-.

It being so, the respondents are directed to pay interest to the petitioner @ 9% per annum on the amount of gratuity except ₹43,376/-, out of total gratuity of ₹8,05,220/- to the petitioner, starting three months from the date of retirement of the petitioner till the actual payment is made.

The petition is allowed to the above noted extent.

May 18, 2017

Suresh Kumar

**(KULDIP SINGH)
JUDGE**

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