

205 **IN THE HIGH COURT OF PUNJAB AND HARYANA
HIGH COURT**

**CWP No. 25745 of 2013
DECIDED ON: FEBRUARY 15, 2018**

RABINDER SINGH

.....PETITIONER

VS

FOOD CORPORATION OF INDIA AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Deepanjay Sharma, Advocate
for the petitioner.

Mr. Manav Bajaj, Advocate and
Mr. Sumeet Goel, Advocate
for the respondents No.1, 3, and 4.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Article 226 of the Constitution of India, petitioner has sought the issuance of a writ in the nature of certiorari for quashing and setting aside the order dated June 27, 2012 (P-5) and immediate release of the amount of gratuity with interest.

2. Concededly, petitioner stood retired on attaining the age of superannuation on June 30, 2009 as Assistant General Manager and under the statutory provisions, the retiral benefits including gratuity was supposed to be

disbursed/released to him on the date of his retirement or maximum within a period of three months from the date of his retirement. Yet in the instant case even after expiry of a period of approximately 5 years after retirement, amount accrued to the petitioner on account of gratuity was released to him, that too, in pursuance of order dated November 25, 2013 passed by this Court.

3. During the course of arguments, it has emerged that a writ bearing ***W.P.(C) 3365 of 2012 titled P.P. Singh & another vs. Union of India & others*** is pending before the Hon'ble Delhi High Court at New Delhi, in which, there is a challenge to the circular dated September 30, 2011, which is also applicable to the petitioner. In the said petition, operation of circular dated September 30, 2011 was stayed by the High Court of Delhi At New Delhi vide order dated May 29, 2012 passed in the afore-said writ petition which stood vacated vide order dated February 22, 2013. Subsequent thereto, there is no stay with regard to the grant or release of the gratuity.

4. Adverting to the facts of the case in hand, petitioner stood retired on June 30, 2009 but amount of gratuity was disbursed/released to him only subsequent to the passing of order dated November 25, 2013 by this Court. Though petitioner is not party to the afore-said writ petition i.e. W.P.(C) 3365 of 2012 yet circular dated September 30, 2011 was applicable to him. Admittedly, petitioner stood retired on June 30, 2009 and payment of gratuity has been made after a considerable and inordinate delay for which no plausible explanation is forthcoming. The petitioner is also deprived of the use of amount of gratuity at the relevant time, which resulted into some pecuniary loss or damage, which is

to be compensated by way of interest, especially in the circumstances that there is no fault on the part of the petitioner.

5. Keeping in view the catena of cases particularly “*A.S. Randhawa v. State of Punjab*”, 1997 (3) RSJ 318 and *Vijay L. Mehrotra vs. State of U.P.*, 2000(4) SCT 267, this Court is of the considered view that petitioner is entitled to the interest @9% on the amount of gratuity after the expiry of three months from the date of his retirement till May 28, 2012 i.e. the day prior to stay was ordered and for the period w.e.f. February 23, 2013 till the actual payment of the afore-said amount. Respondents are directed to calculate the interest as ordered above and make the payment thereof, within two months from the date of receipt of certified copy of this order.

6. As far as the grant of interest with regard to the period during which the operation of circular dated September 30, 2011 remained stayed, petitioner(s) shall be at liberty to avail an appropriate remedy in accordance with the judgment rendered in writ petition bearing *W.P.(C) 3365 of 2012*.

FEBRUARY 15, 2018
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>