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

**CWP No.22560 OF 2016
DECIDED ON: AUGUST 01, 2018**

RAJESH SHARMA **.....PETITIONER..**

VERSUS

PUNJAB STATE POWER CORP. LTD. AND OTHERS **.....RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. C.L. Verma, Advocate,
for the petitioner.

Mr. Roshan Lal Sharma, Advocate,
for the respondents.

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JASPAL SINGH, J.

Through instant petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ particularly in the nature of mandamus directing the respondents to release his pensionary benefits including regular pension, commuted pension, gratuity and leave encashment as well as interest @ 18% per annum from the date of superannuation till the date of actual payment on delayed payment(s).

2. In response to the notice of motion issued by this Court, respondents have preferred written statement through Additional Superintending Engineer, (West) Division Punjab State Power Corporation Ltd. Amritsar (for short, "PSPCL"). It would be appropriate to reproduce preliminary

objection No.1 of the above said written statement, which is helpful for the disposal of the instant petition. It reads as under:-

> *"The petitioner while working as JE with the answering respondents ever since 29.10.1979 but had sought voluntary retirement from service on 31.07.2014. The petitioner has granted provision pension of 67% vide order dated 18.03.2016. The petitioner was also released the GP fund amount vide order dated 29.03.2016. Similarly, leave encashment was paid to the petitioner on 04.04.2016. Only gratuity and balance amount of pension viz. 33% was not released to the petitioner as the petitioner was required to submit and clear the material at site accounts (submitting account of material issued to him to have been considered on works) before final payment. However, it was 14.03.2017 the petitioner has submitted the said material at site account which was checked and found to be in order. Thus the grant of final pension as well payment of gratuity to the petitioner is being processed and will be paid to the petitioner at the earliest."*

3. A glance at the aforesaid paragraph makes it evident that petitioner had sought voluntary retirement from service w.e.f. 31.07.2014 and his proposal for voluntary retirement was duly accepted. In pursuance thereof, he was granted 67% provisional pension vide order dated 18.03.2016. The amount of GPF as well as leave encashment was also paid to the petitioner on 29.03.2016 and 04.04.2016 respectively, whereas gratuity as well as 33% of the pension was not released at that time. The reason put forth by learned State counsel is that the petitioner did not hand over the charge of the material at site either on the date of his retirement i.e. 31.07.2014 or subsequent thereto. On account of

non-handing over the charge, he was released the provisional pension to the extent of 67% besides withholding the amount of gratuity. Ultimately, petitioner submitted the accounts of the said material on 14.03.2017. It was checked and found to be in order. It was thereafter, proceeding was initiated for releasing of remaining 33% of pension as well as the amount of gratuity.

4. A close scrutiny of the aforesaid averments made in the written statement and submission made by learned State counsel transpire that at the most the respondents could have withheld pension and gratuity on account of the reason that the charge was not being handed over by the petitioner. Amounts with regard to the General Provident Fund and leave encashment could have easily been released either on the date of retirement of the petitioner or within a reasonable period of three months after retirement, which has not been done in the instant case. Thus, this Court is of the considered view that petitioner is entitled to interest on the delayed payment of GPF and leave encashment after the expiry of three months period from the date of retirement of the petitioner till the actual payment(s) thereof were made.

5. As far as the interest on the other amounts i.e. gratuity as well as 33% of pension is concerned, the accounts were settled and the complete material at the site was accounted for by the petitioner on 14.03.2017 and this Court is of the considered view that petitioner was not coming forward to hand over the complete charge of the account for the material at site, the respondents was within their right to withheld that amount but at the same time after the accounts were settled and the material at the site was accounted for, within a period of three months, 33% pension as well as amount of gratuity should have

been released to the petitioner but it appears that though the proceedings for the disbursement thereof were initiated but were not finalized. Thus, the petitioner is entitled to interest @ 9% per annum on the delayed payments of 33% pension and arrears thereof as well as gratuity from the date 14.06.2017 (i.e. after the expiry of three months from the date of handing over the complete charge till the actual payment(s) thereof). The respondents are further directed to release the amount of gratuity and 33% pension as well as arrears thereof, if not already made along with interest as observed above, within a period of two months from the date of receipt of certified copy of this order. In case of non-compliance of aforesaid order/direction, the petitioner shall be at liberty to have recourse to the remedies available under law as well as to approach this Court.

AUGUST 01, 2018 **(JASPAL SINGH)**
sonika **JUDGE**

Whether speaking/reasoned ***Yes/No***
Whether reportable ***Yes/No***