

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

**CWP No.4802 of 2015
DECIDED ON: APRIL 03, 2018**

SURJIT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB ETC.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

Ms. Sunnit Kaur, AAG, Punjab.

Mr. Umesh Kumar Kanwar, Advocate
for respondents No.3 to 5.

JASPAL SINGH, J (ORAL)

Through the instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought a writ in the nature of certiorari seeking quashing of letter dated 23.01.2013 (P-3) as well as letter/reply to the legal notice dated 20.10.2014 (P-13) whereby, an amount of ₹40,000/- was withheld from the gratuity in an illegal and arbitrary manner.

2. Concededly, petitioner stood retired as Mali on 31.01.2013 on attaining the age of superannuation. At the time of his retirement some complaint is stated to be pending against him and for that reason, the retiral benefits were not immediately released to him either on the date of retirement or subsequently within a reasonable period. However, as far as the retiral benefits

are concerned, those stood released subsequently in the month of July/August 2013. However, at that time vide letter dated 20.10.2014 (P-13) a sum of ₹40,000/- was deducted by respondent No.5 on account of alleged financial loss caused by the petitioner to the department. This fact has revealed in the reply to the notice (P-13). There is no specific order passed by any of the respondents that any inquiry was conducted prior to the imposition of penalty to the tune of ₹40,000/- on account of alleged loss caused to the department or withholding/deduction of the said amount. Otherwise, also except the afore-said complaint neither any charge sheet nor any judicial proceeding was pending against the petitioner on the date of his retirement.

3. Subsequent thereto, the other retiral benefits accrued to the petitioner on account of his retirement has already been disbursed to him but with some delay for which there is no explanation furnished by the respondents. Petitioner cannot be faulted with in this regard and cannot be penalized just for the simple reason that some complaint was pending against him. It was the duty of the respondents particularly employer that on the date of retirement nothing substantive was pending against the petitioner. Moreover, the release of retiral benefits subsequent to the retirement of petitioner is also suggestive of the fact that the alleged complaint if any pending against the petitioner was not serious and has nothing to do with the release of retiral benefits.

4. As such in the given circumstances, petitioner is entitled to interest on the delayed payment. At the most the payment of retiral benefits could have been made by the respondents within a period of three months from the date of retirement of petitioner, which has not been done in the instant case. As such

petitioner is entitled to interest @9% after the expiry of three months period

from the date of retirement of the petitioner till its actual payment. The amount of interest shall be calculated and disbursed to the petitioner by respondents particularly by respondent No.4-Chief Executive Officer, Zila Parishad, Distt. Rupnagar within a period of two months from the date of receipt of certified copy of this order. In the event of non-compliance of afore-said direction/order, petitioner shall be at liberty to approach this Court or to have recourse to the other remedies available to him under law.

5. As regards withholding or deducting an amount of ₹40,000/- on account of alleged loss caused to the department is concerned, there is nothing on record to suggest as to on what account the said amount was deducted. Neither any show cause notice was served nor any inquiry was conducted. Similarly, there is no order available on record, which could have said to be passed by the respondents with regard to the withholding of the afore-said amount. Thus, it can be safely concluded that the amount of ₹40,000/- has been withheld by the respondents for any reason that too, in a unlawful and illegal manner. Otherwise, also since neither any departmental nor any judicial proceeding was pending against the petitioner either on the date of his retirement or subsequent thereto, withholding of afore-said amount is not legally and factually justified. Thus, petitioner deserves to refund of the said amount.

6. Accordingly, respondents particularly respondent No.4-Chief Executive Officer, Zila Parishad, Distt. Rupnagar are directed to refund an amount of ₹40,000/- to the petitioner within a period of two months from the date of receipt of certified copy of this order, that too along-with interest @9% per annum after the expiry of three months period from the date of retirement of the petitioner.

7. Disposed of accordingly.

APRIL 03, 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>