

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

CWP No.3415 of 2017

Date of Decision: 24.05.2018

Dial Singh

.....PETITIONER

Vs.

State of Punjab and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr.V.K. Shukla, Advocate for the petitioner.

Mr.Jaswinder Singh, Sr. DAG, Punjab,
assisted by Joginder Singh, Tehsildar, Tehsil
Office, Jagraon, District Ludhiana.

JASPAL SINGH J. (ORAL)

By virtue of the instant petition filed under Article 226 of the Constitution of India, the petitioner has sought issuance of a writ in the nature of mandamus directing the respondents to release his pensionary benefits i.e. pension w.e.f. April, 2013 onwards and final payment of Gratuity and leave encashment etc. in view of provisions contained in Punjab Civil Services Rules Vol.II and to give the consequent arrears thereof along with interest thereon @ 12% per annum.

At the very outset of the arguments, the learned State counsel, on instructions from Joginder Singh, Tehsildar, Tehsil Office, Jagraon, District Ludhiana, submits that no written or speaking order was passed by the concerned authorities for the stoppage of provisional pension being received by the petitioner after his retirement. It is also a considered fact that the pension was stopped w.e.f. April, 2013 and subsequent thereto, nothing has been paid to the petitioner till date.

It is well settled proposition of law that prior to the stoppage of pension or imposing any kind of cut on the basis of some conviction of the retiree in a criminal case, the competent authority is obliged to pass a speaking order keeping in view the provisions contained in Rule 2.2.(a) of Punjab Civil Service Rules Vol.II. There is some procedure which is also prescribed for the passing of the order with regard to the imposition of cut upon the pension or the stoppage of pension. But in the instant case, even the written or speaking order has not been passed.

It appears that the provisional pension being paid to the petitioner was based just on oral instructions given by the concerned officer. Any such act or order is not sustainable in the eyes of law and is accordingly quashed/set aside with further direction to the respondents to release the pension to the petitioner w.e.f. April, 2013 that too along with interest @ 9% per annum from the date of his stoppage till actual payment. The needful is expected to be done within a period of one month from the date of receipt of a certified copy of this order.

As far as the disbursement of the amount accrued to the petitioner on account of gratuity and the leave encashment etc., the learned State counsel has submitted that the same has since been released, but the same fact is being countered by the learned counsel for the petitioner asserting that no such payment so far been released.

In this context, the respondents are directed to release the amount of gratuity and leave encashment that too along with interest @ 9% per annum, as stated earlier within a period of one month, if not released to be disbursed earlier and if disbursed earlier, the interest shall be only till the date of payment thereof.

With the aforesaid direction, the instant petition stands disposed of.

However, in case of non-compliance of the aforesaid direction by the respondents, the petitioner shall be at liberty to approach this Court.

**(JASPAL SINGH)
JUDGE**

24.05.2018
Anjal

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No