IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(265) **CWP-21736-2018**
Date of Decision: January 31, 2019

Ravinder Kaur and others **..Petitioners**

Versus

Punjabi University Patiala and another **..Respondents**

(2) **CWP-386-2019**

Gurinder Singh and others **..Petitioners**

Versus

Punjabi University Patiala and another **..Respondents**

(3) **CWP-387-2019**

Paramjit Kaur **..Petitioner**

Versus

Punjabi University Patiala and another **..Respondents**

(4) **CWP-390-2019**

Dr. Neelam Verma **..Petitioner**

Versus

Punjabi University Patiala and another **..Respondents**

(5) **CWP-394-2019**

Harbhajan Kaur **..Petitioner**

Versus

Punjabi University Patiala and another **..Respondents**

(6) **CWP-396-2019**

Dr. Prem Chand Garg **..Petitioner**

Versus

Punjabi University Patiala and another **..Respondents**

(7) **CWP-403-2019**

Dr. Rupinder Kaur **..Petitioner**

Versus

Punjabi University Patiala and another **..Respondents**

(8) **CWP-405-2019**

Dr. Tejinder Kaur **..Petitioner**

Versus

Punjabi University Patiala and another **..Respondents**

(9) **CWP-416-2019**

Pardeep Kaur Brar **..Petitioner**

Versus

Punjabi University Patiala and another **..Respondents**

(10) **CWP-466-2019**

Surinder Kaur **..Petitioner**

Versus

Punjabi University Patiala and another **..Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Bikram Chaudhary, Advocate, and
Mr. Hardeep Singh, Advocate,
for the petitioners in all the writ petitions.

Mr. Ajaivir Singh, Advocate, for the respondents.

HARSIMRAN SINGH SETHI, J.(ORAL)

By this order of mine, ten writ petitions, which involve the same question of law and similar facts, are being decided.

The common controversy has been raised in all the writ petitions seeking the retiral benefits.

In all the writ petitions, the grievance raised is that though the petitioners have already retired from service, the benefit of leave encashment and the gratuity has not been released to them rather, the orders have been passed by the respondents stating that the gratuity and the leave encashment will be released in February/June 2020 due to financial difficulties.

Learned counsel for the petitioners has raised grievance that the respondents cannot delay the payment of the gratuity and leave encashment upto February/June 2020 citing financial difficulties. Counsel relies upon the order passed by the Division Bench in ***Ram Karan Vs. Managing Director, Pepsu Road Transport Corporation and another, 2005 (4) SCT 438*** to contend that the financial constraint is no ground to withhold the pensionary benefits.

Upon notice of motion, Mr. Ajaivir Singh, Advocate appearing on behalf of the respondents states that though the financial position of the University is bleak still, the University on reconsideration has decided that the leave encashment to the retirees will be cleared upto 31.03.2019. He further submits that in case of the gratuity, the retirees will be paid the same by 31.05.2019.

In view of the statement given by counsel for the respondents, counsel for the petitioners does not press their writ petitions and feel satisfied.

In view of the above, the present writ petitions are disposed of with a direction that the respondents will be bound by the undertaking given hereinbefore for the release of the amount of leave encashment and the gratuity in case of the retirement by the due dates along with interest.

In case of any violation, the same will be seriously viewed.

Learned counsel for the petitioners states that in view of the settled principle of law, the petitioners are also entitled for the interest.

Learned counsel for the petitioners relies upon the full Bench judgment of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468*** to contend that once the amount for which the petitioners are entitled for immediately upon their retirement, has been withheld, the same is to be released along with interest. He further cites the decision rendered by this Court in ***J.S. Cheema Vs. State of Haryana and others, 2014 (1) S.C.T. 782*** wherein the following has been recorded:-

> "*The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.*"

Counsel for the respondents is not in a position to dispel the said arguments. As there is a delay on the part of the respondents in releasing the pensionary benefits and that too without any valid justification, case of the petitioners is covered under the above mentioned judgments for the grant of interest. The financial difficulty, as noticed above has been held not to be a valid ground to withhold and therefore the same cannot be pressed into for defending for not paying the interest on the delayed payments. The petitioners are held entitled for the interest @ 9% per annum on the release of the above mentioned leave encashment and the gratuity from the date it became due till the payment is made to the petitioner.

(HARSIMRAN SINGH SETHI)
JUDGE

January 31, 2019
harsha

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No