

**CWP-25552 of 2017 and
CWP-25652 of 2017**

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

**CWP-25552 of 2017
Date of decision: 21.01.2020**

Jaswant Singh

.... Petitioner

versus

State of Punjab and another

... Respondents

CWP-25652 of 2017

Gurdeep Singh

.... Petitioner

versus

State of Punjab and another

... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. IPS Kohli, Advocate
for the petitioner(s).

Mr. Navdeep Chhabra DAG, Punjab.

HARSIMRAN SINGH SETHI, J.

By this common order, above mentioned two writ petitions are being decided as both the writ petitions involve same question of law and similar facts. For the purpose of this order, facts are being taken from CWP No.25552 of 2017.

The grievance which is being raised by the petitioner in this writ petition is in respect of the denial of grant of interest on delayed release of gratuity. The petitioner was employed as a Conductor on 15.03.1978 and due

to his hard work, he was promoted as Inspector, from which post he retired from service on attaining the age of superannuation on 30.04.2014. An FIR No.2 dated 02.04.2013 was registered against petitioner in CWP-25552 of 2017, Jaswant Singh as well as against the petitioner in CWP-25652 of 2017 Gurdeep Singh prior to their retirement. Due to the pendency of the said criminal case, the gratuity of both the petitioners was withheld by the respondents.

Proceedings in respect of FIR No.2 dated 02.04.2013 came to an end on 10.04.2015, when the petitioners were acquitted by the competent Court of law. After the acquittal of the petitioners, the gratuity was released to them on 16.09.2016.

Prayer of the petitioner in this writ petition is that, as after the acquittal of the petitioner by the competent Court of law on 10.04.2015, there was no impediment in the release of his gratuity, but still the same has been released to him after a period of one year and five months, therefore, the petitioner is entitled for interest on the said delayed payment of gratuity.

Upon notice of motion, the respondents have filed reply and in the reply, the respondents have stated that keeping in view the pendency of FIR No.02 dated 02.04.2013 on the date of retirement of the petitioner, the gratuity was withheld and after his acquittal by the competent Court of law, the same was released to him and the delay in the release of gratuity is only procedural and not intentional, therefore, the petitioner is not entitled for interest.

I have heard learned counsel for the parties and have perused the record with their able assistance.

Withholding of the gratuity by the respondents during the pendency of FIR No.02 dated 02.04.2013 cannot be faulted with. Nothing has been

pointed out by the learned counsel for the respondents to show as to what authorised the respondents to withhold the gratuity of the petitioners after they were acquitted by the competent Court of law on 10.04.2015. Once there was no impediment in the release of the gratuity after the acquittal of the petitioners, the same was required to be released within a reasonable time.

A Full Bench of this Court in **A.S. Randhawa vs. State of Punjab** **1997(3) S.C.T. 468** has held that an employee will be entitled for release of his pensionary benefits within a reasonable time after his retirement and the reasonable time fixed by the Full Bench is two months. In case of failure to do so within a reasonable time, an employee will be entitled for interest.

Relevant paragraph of the judgement is as under:-

“Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement.”

In the present petition, after the acquittal of the petitioner, once there was no other impediment in the release of his gratuity, the same should have been released within a reasonable time of two months, but the same was not done and the gratuity was released on 16.09.2016 and, hence, the case of the petitioner is squarely covered by the judgement in **A.S.**

Randhawa's case (supra).

Further, a Co-ordinate Bench of this Court in J.S. Cheema Vs. State of Haryana 2014 (13) RCR (Civil) 355 held that where an amount is retained and used by the respondents/employer, an employee will be entitled for interest on the same. Relevant paragraph of the judgment is as under:-

“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.”

In view of the above, the petitioner in CWP-25552 of 2017, Jaswant Singh is held entitled for interest on the delayed release of amount of gratuity @ 9% per annum from 01.07.2015 onwards till the same was actually released to him on 16.09.2016.

In CWP No.25652 of 2017, the petitioner Gurdeep Singh retired after his acquittal on 31.10.2015. As there was no impediment in the release of his pensionary benefits at the time of retirement, the respondents should have released the same forthwith as the ground of pendency of criminal proceedings was not available in his case. Therefore, the petitioner, Gurdeep Singh is also held entitled for interest @ 9% per annum on gratuity from 01.11.2015 onwards till the same was actually released to him on 16.09.2016.

Let computation of the interest, for which the petitioners are entitled under this order be carried out within a period of two months from the date of receipt of copy of this order and the payment so calculated be released to the petitioners within a period of one month thereafter.

Both the writ petitions stand allowed in above terms.

21.01.2020
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(HARSIMRAN SINGH SETHI)
JUDGE

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| 1. | Whether speaking/non-speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |