

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-418-LPA-2023 & CM-508-LPA-2023

in/and

LPA-200-2017 (O&M)

Date of Decision: 23.02.2023

STATE OF PUNJAB AND ANOTHER

....Petitioners

V/s.

RAI SINGH AND ANOTHER

....Respondents

CORAM: **HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO.**
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Karanjit Singh, Addl. A.G., Punjab.
for the applicants-appellants

Mr. Dilbagh Singh, Advocate, for respondent No.1

Mr. G.S. Attariwala, Senior Advocate, assisted by
Mr. Saurabh Singla, Advocate, for respondent No.2

M.S. RAMACHANDRA RAO, J. (Oral)

CM-508-LPA-2023

This application is filed by respondent No.2 for placing on
record documents Annexures A-1 to A-4.

Notice in the application.

Mr. Karanjit Singh, Addl. A.G., Punjab accepts notice in the
application on behalf of the appellants and Mr. Dilbagh Singh, Advocate
accepts notice for respondent No.1. They state that they have no objection if
this application is allowed.

Having regard to the averments made in the application, and in
view of the statement made by counsel for the appellants and respondent
No.1, this application is allowed, and the documents Annexures A-1 to A-4
are taken on record.

LPA-200-2017 (O&M)

Respondent No.1 was working as Junior Engineer-respondent
No.2-Improvement Trust, Ropar.

An FIR No.47 dt.23.09.2004 was registered against him under Sections 420, 465, 468, 471, 511, 120-B and under Sections 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, with Police Station Vigilance Bureau, Ludhiana.

Respondent No.1 retired as a Junior Engineer on 31.08.2012 from the Office of respondent No.2.

Due to the pendency of the judicial proceedings initiated in view of FIR dt.23.09.2004, he was sanctioned 100% provisional pension vide letter dt.30.08.2012, but gratuity and leave encashment were withheld.

Respondent No.1 filed CWP-2407-2014 before this Court seeking the quashing of order dt.30.08.2012 whereby gratuity and leave encashment was withheld.

The appellants filed a written statement to the Writ Petition stating that 100% provisional pension and provident fund had been released but in view of the Vigilance case pending against respondent No.1, gratuity and leave encashment had been withheld, and shall be released only after the disposal of the said Vigilance case.

Learned Single Judge vide order dt.10.08.2016 allowed the Writ Petition filed by respondent No.1 thereby directing to release arrears of leave encashment and gratuity to respondent No.1 within three months from the date of receipt of certified copy of the order along with interest @9% per annum, starting from three months from the date of retirement of respondent No.1 till its payment.

This order has been assailed in this Appeal.

In the meantime, respondent No.1 was acquitted in the said Vigilance case on 31.10.2018.

Thereafter, on 05.12.2019, the Director, Local Government issued a clearance certificate for payment of leave encashment and gratuity to the respondent No.1 in view of his acquittal in the Vigilance case referred to supra.

The payment of the said amount appears to have been released by respondent No.2 to respondent No.1 by 01.10.2021.

Prior thereto, on 24.01.2020, an affidavit is said to have been given by respondent No.1 stating that he would need the money and is willing to give-up the interest part on the amounts payable to him.

Had the payments been released to respondent No.1 at that point of time, we can may be say that he had given up his claim for interest, but since the payment was not released in spite of the clearance given by the Director, Department of the Local Government on 05.12.2019 till almost October 2021, we are of the opinion that the said affidavit, probably given because of the economic duress, cannot be used as an estoppel against respondent No.1, and that respondent No.1 would be entitled to the interest as per the decision of the learned Single Judge in the Writ Petition filed by respondent No.1.

In view of the aforesaid, this Appeal is dismissed.

Pending application(s), if any, shall also stands disposed of.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

February 23, 2023
Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes/No</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>