



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Date of decision 29.08.2024

(i) CWP-28139-2022

Dharam Singh and othersPetitioners

Versus

State of Punjab and othersRespondents

(ii) CWP-28628-2022

Sunil Kumar Khosla and othersPetitioners

Versus

State of Punjab and othersRespondents

(iii) CWP-28635-2022

Veena Rani and othersPetitioners

Versus

State of Punjab and othersRespondents

(iv) CWP-5655-2023

Charanjit Uppal and othersPetitioners

Versus

State of Punjab and othersRespondents

(v) CWP-11295-2024

Satish Chander Kumar and othersPetitioners

Versus

State of Punjab and othersRespondents

CORAM: HON’BLE MR. JUSTICE NAMIT KUMAR



**CWP-28139-2022 and
other connected cases**

Present : Mr. R.K. Arora, Advocate with
Mr. Jugam Arora, Advocate for the petitioner(s)
in CWP-28139-2022 and CWP-5655-2023.

Mr. Dhiraj Chawla, Advocate
for the petitioners in CWP-11295-2024.

Ms. Seema Kumari, Advocate for
Ms. Sonia G. Singh Samber, Advocate
for the petitioner(s) in CWPs-28628 & 28635 of 2022.

Mr. Surya Kumar, A.A.G., Punjab.

Mr. Vishal Handa, Advocate
for respondent No.3 in CWP-28628-2022.

Mr. Rudresh, Advocate for
Mr. S.S. Chatrath, Advocate
for respondent No.9 in CWP-28628-2022 and
for respondent No.3 in CWP-11295-2024.

Mr. S.P. Garg, Advocate
for respondent No.4 in CWP-28628-2022.

Ms. Swinki Mehta, Advocate with
Mr. Vinay Gaur, Advocate for
Mr. K.S. Kang, Advocate
for respondent No.4 in CWP-28139-2022.

Mr. T.V.S. Lehal, Advocate
for respondent No.12 in CWP-28635-2022.

Mr. Rohit Gupta, Advocate
for respondent No.6 in CWP-28628-2022.

Mr. Raj Pratap Singh Brar, Advocate
for respondent No.7 in CWP-28628-2022 and
for respondents No.8 & 9 in CWP-28139-2022.

Mr. Rohit Singla, Advocate
for respondent No.6 in CWP-28139-2022.

Ms. Roja Agnihotri, Advocate
for respondents No.11 & 13 in CWP-28635-2022.

Mr. Parminder Singh, Advocate
for respondent No.8 in CWP-28628-2022 and
for respondents No.6 & 7 in CWP-28635-2022.



**CWP-28139-2022 and
other connected cases**

Mr. Kamaldeep Singh Sidhu, Advocate
for respondent No.5 in CWP-28139-2022.

Mr. Aditya Pratap Duggal, Advocate
for respondents No.4 & 10 in CWP-28635-2022.

Ms. Pushpanjali Bisht, Advocate for
Mr. T.S. Sidhu, Advocate
for respondent No.8 in CWP-28635-2022.

Mr. Vikram Preet Arora, Advocate
for respondents No.9 and 14 in CWP-28635-2022 and
for respondent No.3 in CWP-5655-2023.

Mr. A.K. Bazaz, Advocate for respondent No.3
in CWP-28139-2022.

NAMIT KUMAR, J.

1. This order shall dispose of CWP-28139-2022, CWP-28628-2022, CWP-28635-2022, CWP-5655-2023 and CWP-11295-2024, as common question of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CWP-28139-2022.
2. The petitioners, who have retired from various Municipal Corporations/Councils in the State of Punjab, have filed the present petition claiming the following relief :-

“Issue a writ in the nature of certiorari/mandamus or such other appropriate writ, order or directions quashing the action of the respondents in not releasing the revised rate of Death-cum-Retirement Gratuity to the petitioners in terms of Clause 6 of the Finance Department Circular dated 29.10.2021 (Annexure P-2), whereby the maximum limit of DCRG has been enhanced from Rs.10 lakhs to Rs.20 lakhs w.e.f. 01.01.2016 because all the petitioners retired from service prior to 03.01.2022 when the



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provisions of Rule 17 of the Punjab Municipal Services (Recruitment and Conditions of Services) Rules, 1975 have been amended vide notification dated 03.01.2022 (Annexure P-3) to apply the provisions of Payment of Gratuity Act, 1972 and thus the action is patently wrong, illegal, arbitrary, malafide, unconstitutional and violation of the judgment dated 30.03.2017 in CWP No.22081 of 2015 (Annexure P-5)."

3. Separate replies on behalf of respondents No.1 & 2, 3, 5 and 9 are already on record. Separate replies on behalf of respondents No.6 and 7 have been filed in the Court today which are taken on record. In the reply filed on behalf of respondents No.1 & 2, it has been stated as under :-

"5. That due to non-uniformity in various service rules of Urban Local Bodies, the demand is being made by the retired employees for the release of gratuity under the scheme which is beneficial to them. The Department has decided to change the provisions of gratuity in the various service rules in order to bring uniformity in the Service rules of Urban Local Bodies and to provide benefit of gratuity at par under one scheme to all the employees. Therefore, vide notifications dated 05.01.2022, the above mentioned service rules were further amended and the following rule was substituted:

"Gratuity- The members shall be entitled to gratuity as per the provisions mentioned in the Payment of Gratuity Act, 1972."

6. *That vide Notification dated 05.01.2022, the amendment in Rule 17 of the Punjab Municipal Corporation Services (Recruitment and Conditions of Service) Rules, 1978 was made effective prospectively i.e*

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from the date of publication in official Gazette, therefore, employees who retired prior to 05.01.2022 are entitled to gratuity as per the provisions contained in the respective service rules. A copy of notification dated 05.01.2022 is annexed herewith as Annexure R-1/2. In view of the notification dated 05.01.2022 employees who retired prior to 05.01.2022 are entitled to gratuity as per the provisions contained in the respective service rules and in this regard, a clarification has also been issued vide letter No. Acctt-7-DCFA-DLG-2023/10860-11090 dated 07.03.2023 to all the Urban Local Bodies in the State of Punjab. A copy of which is annexed as Annexure R-1/3. The relevant portion of decision taken vide letter dated 07.03.2023 is reproduced as under :-

“After considering the matter by this office, it has been decided that employees of the Urban Local Bodies who have retired before the notification dated 05.01.2022 will be entitled to receive gratuity as per the provisions in the service rules of the Urban Local Bodies.”

7. That apart from above, again a copy of letter dated 07.03.2023 has sent to the concerned offices i.e respondents No.3 to 9 vide letter dated 10.04.2023. Thus, in order to take necessary action regarding the payment of gratuity in view of the notification/instructions of the Government, respondent No.3 to 9 are the competent sanctioning and disbursing authorities in this matter. The answering respondent has no role in the release of gratuity amount to the petitioners. As such, Civil Writ Petition qua the answering respondents renders infructuous.”

4. In nutshell, the stand taken by the respondent-State is that the persons, who have retired prior to 05.01.2022, shall be covered by



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their respective service rules and who retired after 05.01.2022, shall be covered by the Payment of Gratuity Act, 1972 (amended from time to time). It has also been stated that they all are entitled for the revised gratuity as per notification dated 29.10.2021 (Annexure P-2) and the respective Municipal Corporations/Councils shall take necessary action regarding payment of gratuity in view of the said notification/instruction issued by the Government.

5. In this view of the matter, the concerned Municipal Corporations/Councils in all the present petitions are directed to make payment of revised gratuity to the petitioners, where it has not been made, along with interest as applicable to the G.P.F. payment from the date it become due till the date of payment, within a period of 04 months from the date of receipt of certified copy of this Court.
6. The present petitions are disposed of in the above terms.

29.08.2024
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No