



CWP-2305-2022

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

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CWP-2305-2022 (O & M)
Date of decision: 22.01.2025

Makhan Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Jatinderpal Singh, Advocate,
for the petitioner.

Mr. Satnam Preet Singh Chauhan, DAG, Punjab.

Mr. Vikram Jeet Singh, Advocate,
for respondent No.5.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for releasing the pensionary benefits of the petitioner.

2. The petitioner had retired on attaining the age of superannuation on 28.02.2021, admittedly, neither any challan nor disciplinary proceedings, which till date, have not been instituted. Learned counsel relies on Rule 2.2(b) of the Punjab Civil Services Rules, Volume II, which has since been interpreted by the Division Bench in the case of **Subhash Chand Singla vs. The Punjab State Cooperative Supply and Marketing Federation Ltd. and another**, 2007(4) RSJ 776, relevant paras whereof read thus:



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“A perusal of the afore-mentioned rules show that where a departmental or judicial proceeding is instituted under clause (b) of Rule 2.2 of the Rules no gratuity or death cum retirement gratuity is payable to such an employee till the conclusion of such proceedings and passing of final orders. The Explanation further makes clear that criminal proceedings are deemed to be instituted only on the presentation of challan. It is conceded position that on 30.6.2005 no challan was presented and therefore it cannot be concluded that any criminal proceedings on the date of retirement of the petitioner were pending. Mere registration of an FIR against the petitioner would not constitute a valid ground for withholding the amount of gratuity payable to the petitioner. For the afore-mentioned proposition we also draw support from a judgment of the Hon'ble Supreme Court in the case of Union of India v. K.V. Jankiraman, 1991(3) SCT 317: AIR 1991 Supreme Court 2010. In para 6 their Lordships have observed as under:

“The promotion etc. cannot be withheld merely because some disciplinary/criminal proceedings are pending against the employee. To deny the said benefit, they must be at the relevant time pending at the stage when charge-memo/charge-sheet has already been issued to the employee.”

3. In view of the afore-mentioned legal position as provided by Rule 2.2(c) read with Explanation to Rule 2.2(b) of the Rules, judicial precedents and the principles we are of the view that the writ petition deserved to be allowed. Accordingly, a writ of mandamus is issued to the respondents commanding them to release the amount of gratuity or any other retiral benefits which are due to him within a period of two months from the date of receipt of copy of this order. Petition allowed.”

3. This Court in **Atma Bodh Sharma vs. State of Haryana and others** 2007(1) RSJ 438, also held that gratuity cannot be withheld, when there was no charge-sheet pending against the employee on the date of retirement.



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4. Learned State counsel despite best efforts has been unable to controvert regards the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.

5. In wake of the above, the present petition is disposed of in terms of the judgment in **Subhash Chand Singla** (supra).

22.01.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

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