



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

CWP-2576-2022

Date of decision: 23.09.2025

Harbans Lal

....Petitioner

Versus

Punjab State Civil Supplies Corporation Ltd and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Manhas, Advocate
for the petitioner.

Mr. Mrigank Sharma, Advocate for
Dr. Puneet Kaur Sekhon, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing of order dated 12.01.2022 (Annexure P-10) vide which the leave encashment of the petitioner has been ordered to be withheld and further for issuance of a writ in the nature of *mandamus* directing the respondents to release the gratuity and leave encashment of the petitioner along with interest @ 18% per annum from the date of retirement.

2. Learned counsel for the petitioner *inter alia* contends that petitioner was appointed as a Senior Sale Assistant Grade-I in the year 1976. Thereafter, the petitioner earned promotions and superannuated from service on 31.12.2012. The petitioner before his retirement was charge sheeted on 07.06.2006 and he was awarded punishment of stoppage of two increments with cumulative effect and recovery of Rs.25,45,622/-. The Appellate



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Committee modified the punishment order for stoppage of two increments to the extent of setting aside the same. However, the recovery component was modified to the extent of 30% of the total loss. In terms of the order passed by the Appellate Committee, an amount of Rs.7,63,687/- has already been recovered from the petitioner. The respondent-Corporation has adopted the Gratuity Act, 1972 (hereinafter referred to as 'the Act of 1972'), in spite of the fact, the petitioner was never terminated in terms of Section 4 of the Act of 1972. His gratuity was withheld and ultimately in compliance of the order passed by this Court in CWP No.15153 of 2021 titled as 'Harbans Lal Vs. Punjab State Civil Supplies Corporation Ltd. and another' decided on 06.12.2021, his gratuity was released on 19.05.2022. As such, the petitioner is entitled to the interest on account of delay in releasing the gratuity. Further, the petitioner aggrieved by withholding of the leave encashment by the respondent-Corporation which is not backed by any legislative mandate. In the absence of any statutory rule providing withholding of leave encashment, the act and conduct of the respondent-Corporation is not sustainable in the eyes of law.

3. Per contra, learned counsel for the respondent-Corporation submits that the recovery suit filed against the petitioner was decreed prior to the issuance of charge sheet itself. The Appellate Court dismissed the appeal filed by the petitioner. The Regular Second Appeal bearing No.1788 of 2014 is pending before this Court, as such, the respondent-Corporation is justified in withholding the leave encashment. However, learned counsel for the respondent-Corporation is not in a position to controvert the fact that there is no provision in the applicable rules with regard to withholding the leave encashment.



4. Having heard learned counsel for the parties and after perusal of the record, it transpires that the recovery of amount in terms of the order passed by the Appellate Authority, an amount of Rs.7,63,687/- has already been recovered from the petitioner and the petitioner was never terminated as to empower the respondent-Corporation to withhold his gratuity in terms of Section 4 of the Act of 1972. The respondent-Corporation has released the gratuity to the petitioner only on 19.05.2022. Further, the applicable rules does not provide for withholding of the leave encashment, as such, the action of the respondent-Corporation in this regard is not backed by any legislative mandate. Further, this Court in 'Dhir Chand Vs. State of Haryana and others' 2019 (1) SCT 134, has categorically held that leave encashment has to be paid even to a dismissed employee as it is a part of earned salary. Reliance can also be placed upon the judgment of this Court passed in CWP No.13227 of 2016 titled as 'Santokh Singh Vs. Punjab State Civil Supplied Corp. Ltd. and others' decided on 30.05.2019.

5. In view of the discussion above, the present civil writ petition is allowed and the order dated 12.01.2022 (Annexure P-10) is hereby set aside. The respondents are directed to calculate the amount of interest on the gratuity and further to release the leave encashment from the date it became due till actual realisation @ 6% per annum in terms of the judgment rendered by a Full Bench of this Court in ***A.S. Randhawa Supg. Engineer (Retd.) vs. State of Punjab*** 1998 (1) SCT 343, within a period of three months from the date of receipt of certified copy of this order.



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6. Needless to say, the directions issued by this Court would not prejudice the right of either parties in the pending RSA No. No.1788 of 2014.

(HARPREET SINGH BRAR)
JUDGE

23.09.2025

Neha

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