



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

280

CWP-4233-2025 (O&M)
Date of decision: 26.08.2025

Jaswinder Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sauman S. Gill, Advocate
with Mr. Ritish Watts, Advocate
for the petitioner.

Mr. T.P.S. Walia, AAG, Punjab.

Mr. T.S. Sidhu, Advocate
for respondent No.3.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the letter dated 31.01.2025 (Annexure P-8) issued by respondent No.2 to respondent No.3 to the extent that the Leave Encashment and Gratuity which was ordered to be withheld due to the pendency of the Vigilance Enquiry No.2 of 2018 despite the fact that till date no FIR has been registered against the petitioner in the said enquiry. Further a writ of *mandamus* has been sought, directing the respondents to decide the legal notice dated 07.01.2025 (Annexure P-6) served upon respondents No.1 to 3 by the petitioner and release all the retiral benefits alongwith interest @ 12% per annum as per the



judgements passed by this Hon'ble Court in '*A.S. Randhawa versus State of Punjab*' 1997(3) SCT 468 and *J.S. Cheema versus State of Haryana & Ors.*' 2014(1) SCT 782.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has joined the services with respondent No.3 in February, 1992 as Supervisor Horticulture and after serving the respondent/Board for a period of 32 years, he superannuated as Assistant Trust Engineer (Horticulture) on 31.05.2024. During the entire service period of the petitioner, his record remained unblemished. Admittedly, at the time of his retirement, no disciplinary proceedings either departmental or criminal case were pending against him. The petitioner was issued No Due Certificate (NDC) on 30.05.2024. Subsequently, instead of releasing the gratuity and leave encashment immediately after the petitioner's retirement, another order was passed on 06.06.2024 by keeping the No Due Certificate (NDC) issued to the petitioner in abeyance on the ground that one enquiry in the Vigilance Department is pending since 2018.

3. Learned counsel for respondents No.1, 2 and 4 as well as learned counsel for respondent No.3 could not controvert the fact that at the time of retirement of the petitioner, no charge-sheet with regard to any misconduct was pending against the petitioner.

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



5. As per Rule 8.21(aa) of the Punjab Civil Services Rules, Volume I, Part I, the competent authority is empowered to withhold the cash equivalent of earned leave only in cases where a government employee retires while under suspension or when disciplinary or criminal proceedings are pending against him. The Rule further provides that such withholding is permissible only when there exists a likelihood of monetary recovery upon the conclusion of such proceedings. Similarly, Rule 9.14(c) of the Punjab Civil Services Rules, Volume II, stipulates that gratuity shall not be paid until the conclusion of departmental or judicial proceedings and issuance of a final order thereon. However, the proviso to the said Rule clarifies that where the proceedings are initiated under Rule 10 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, for imposing minor penalties, gratuity may still be released.

6. A perusal of the aforementioned provisions clearly indicates that leave encashment and gratuity of an employee can only be withheld if he is under suspension or facing any disciplinary or criminal proceedings. Admittedly at the time of superannuation, the petitioner was neither under suspension nor any such disciplinary or criminal proceedings were pending against him. As such, the respondents have wrongly withheld the payment of leave encashment and gratuity of the petitioner, in contravention of the aforesaid Rules.

7. In view of the above, the present petition is allowed. The respondents are directed to release the leave encashment and gratuity to



the petitioner within a period of three months from the date of receipt of certified copy of this order. Further the petitioner would be entitled to interest @ 7.5% per annum, from the date of his entitlement till actual disbursement, in terms of the judgment rendered by Full Bench of this Court in *A.S. Randhawa Supg. Engineer (Retd.) vs. State of Punjab 1998 (1) SCT 343*.

(HARPREET SINGH BRAR)
JUDGE

26.08.2025
yakub

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