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

LPA-805-2025 (O&M)
Date of decision: 19.03.2025

SHIV KUMAR

……Appellant

Versus

THE PUNJAB STATE COOPERATIVE SUPPLY AND MARKETING FEDERATION LTD. & ORS.

…..Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present:- Mr. Shiv Kumar, appellant in person.

SUDHIR SINGH, J.

CM-2024-LPA-2025

For the reasons given in the application, the same is allowed. Delay of 111 days in filing the appeal is condoned, subject to all just exceptions.

CM-2026-LPA-2025

Allowed as prayed for and document Annexure A-1 is taken on record, subject to all just exceptions.

LPA-805-2025

Challenge in the present instant intra Court appeal is to the order dated 18.10.2024 passed by the learned Single Judge of this Court, whereby the writ petition filed by respondent No.1-The Punjab State Co-operative Supply and Marketing Federation Limited, was disposed of holding that respondent No.1 was liable to pay interest @

10% per annum from 10.09.2017 to the date of payment i.e., 26.03.2019.

2. Before the learned Single Judge, respondent No.1 had laid challenge to the orders dated 03.06.2019 passed by the Controlling Authority and 25.03.2022 passed by the Appellate Authority (Annexures P5 and P-8 respectively with the writ petition) under the payment of Gratuity Act, 1972 (for short '1972 Act'). The appellant joined the services in respondent No.1-The Punjab State Co-operative Supply and Marketing Federation Limited, Chandigarh, on 10.12.1980. He attained the age of superannuation on 31.07.2015, but he was granted extension till 31.07.2017. In the meantime, on 03.12.20214, disciplinary proceedings were initiated against him, which were concluded on 25.02.2019 with the punishment a censure. The appellant had filed an application under the 1972 Act, before the Controlling Authority for release of gratuity amount and vide order dated 03.06.2019, respondent No.2 was directed to pay a sum of Rs.39,245/- towards balance amount as prior to the said date, the appellant had already received an amount of Rs.10,00,000/- towards gratuity. The Controlling Authority had further directed respondent No.1 to pay the appellant interest @10% per annum from the date of superannuation till the payment of gratuity. An appeal filed against the said order by respondent No.1 was dismissed vide order dated 25.03.2022.

3. Before the learned Single Judge, it was the case of respondent No.1 that the appellant was relieved on 31.07.2017, after availing extension and the gratuity was withheld due to the pendency

of the disciplinary proceedings against him. It was further the case of the respondent No.1 that in the departmental proceedings, the appellant was not exonerated and rather, the punishment of censure was imposed upon him and, therefore, he was not entitled to the payment of interest on the delayed payment of gratuity. The said stand was objected to by the appellant on the ground that as per the agreement executed between the parties, he was entitled to the gratuity as determined by the Controlling Authority and that he was also entitled to the interest in terms of the provisions of 1972 Act. However, as noticed by the learned Single Judge, it was conceded by the appellant that there was no provision of interest in 1990 Rules and that the gratuity could not be determined on the basis of the said Rules.

4. The appellant in person has vehemently contended that once, he had attained the age of superannuation on 31.07.2015, he was entitled to the payment of gratuity on the said date and any extension in service cannot defeat the said right. In other words, it cannot be held that the gratuity was to be paid to him when he was relieved by respondent No.1 after extension on 31.07.2017. It is still further argued that censure is not a punishment and, therefore, respondent No.1 was not justified in delaying the payment of gratuity to the appellant. It is further argued that in CWP-12061-2023, filed by the appellant, respondent No.1 filed its written statement and admitted therein that the actual date of superannuation of the appellant was 31.07.2015. It is yet further contended that as the amount of gratuity of Rs.10,00,000/- was paid on 26.03.2019, the Authorities below has

rightly held the appellant entitled to the payment of interest, but the learned Single Judge has erroneously set aside the said order. While referring to the judgment of the Hon'ble Supreme Court in **Gorakhpur University Vs. Shitlaprasad Nagendra C. AIR 2001 SC 2433**, it is contended that the pension and /or gratuity is not a bounty, but the same is a valuable right acquired by an employee on account of his long tenure of service.

5. We have heard the appellant in person and have also gone through the impugned order passed by the learned Single Judge.

6. The only question that arises for consideration by this Court is whether the order passed by learned Single Judge, requires any interference.

7. It is not disputed that the gratuity amount was paid to the appellant on 26.03.2019. The only question is whether the appellant is entitled to the interest upon the delayed payment of gratuity. The appellant has not disputed the pendency of the disciplinary proceedings initiated against him in 2014. The culmination of the inquiry proceedings is also not disputed which had ended with the issuance of censure to him. The relevant extract from the order passed by the learned Single Judge, would read as under:-

> "9. The respondent became entitled to gratuity on the date he was relieved i.e. 31.07.2017. The employer was liable to make payment within 30 days from the date of relieving. The respondent was neither terminated nor

> found involved in riotous or disorderly conduct or any other act of violence. He was subjected to minor punishment of 'Censure' in 2019. Interest is compensatory in nature. Section 7(3A) of 1972 Act read with Notification issued therein provides that in case of delayed payment of gratuity, an employees would be entitled to interest @10% per annum. The Controlling Authority has wrongly granted interest from the date of superannuation. The respondent attained age of superannuation on 31.07.2015 whereas he was actually relieved on 31.07.2017 because he was granted extension of two years. The gratuity could not be paid to him during the period of extension. Thus, there was no question of payment of interest for the said period. The respondent is entitled to interest @10% per annum from the expiry of 30 days from 31.07.2017. Accordingly, it is hereby held that petitioner is liable to pay interest @10% per annum from 01.09.2017 to date of payment i.e. 26.03.2019."

8. From the aforesaid factual position, it is apparent that there was no intentional or deliberate delay on the part of respondent

No.1 in paying the gratuity to the appellant soon after his superannuation and/or after the period of his extension was over in 2017. Rather, the same was due to the disciplinary proceedings pending against him and once such disciplinary proceedings had been concluded, he was paid the said amount. Though, the appellant relies upon Rule 4 of the 1972 Act, yet we find that taking into consideration the peculiar facts of the case, as noticed above, the amount of gratuity paid in 2019, does not entail the payment of interest as awarded by the authorities. The learned Single Judge has rightly held that the appellant is entitled to the interest @ 10% per annum from 01.09.2017 till the payment of gratuity i.e., 26.03.2019.

9. We find that the findings recorded by the learned Single Judge, do not suffer from any illegality or perversity which may warrant interference by this Court.

10. No other point has been urged.

11. In view of the above findings, no merit in the present appeal, the same is hereby dismissed.

12. Pending application(s), if any, shall stand disposed of.

[SUDHIR SINGH]
JUDGE

[SUKHVINDER KAUR]
JUDGE

19.03.2025
himanshu

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