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

**CWP-15740-2024
DECIDED ON: 26.11.2025**

VIR BHAN

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. V.P. Sangwan, Advocate
for the petitioner

Ms. Mayuri Lakhanpal Kalia, DAG Haryana

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SANDEEP MOUDGIL, J (ORAL)

1. ***Prayer***

The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for issuance of a writ in nature of mandamus directing the respondents to pay interest to the petitioner on the amount of retiral benefits, released after a long delay in a discriminatory and arbitrary manner.

2. ***Brief Facts***

The petitioner is a retired from government service on 31.05.2020 after having joined as a Junior Engineer on 12.04.1984 and rendering more than 36 years of satisfactory service. An FIR No. 12 dated

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02.08.2015 under Sections 409, 420, 467, 468, 471 and 120-B of the IPC was registered against the petitioner and others by the State Vigilance Bureau, Hisar, and charges in the said case were framed on 23.12.2021. The petitioner contends that two other similarly situated co-accused persons, namely Ram Kishan Sangwan, SDO (Retd.) and Rajesh Sharma, Junior Engineer, against whom charges were also framed, were granted promotions and all retiral benefits, whereas his own retiral benefit of gratuity was arbitrarily and discriminatorily withheld despite no departmental proceedings being pending against him. The petitioner submitted that gratuity can be withheld only under Rule 12 on account of proven pecuniary loss caused due to negligence or misconduct, which is not applicable in his case, as nothing is recoverable from him and several co-accused persons were even deleted from the FIR. Various representations, including one dated 03.11.2020, were submitted by the petitioner seeking release of gratuity along with interest; however, the respondents neither responded nor took corrective action. Consequently, the petitioner approached this Court by way of CWP No. 10102 of 2023, which was disposed of on 10.05.2023 with a direction to decide the pending representation of the petitioner. The respondents, however, rejected the representation on 07.08.2023 on the ground of pendency of judicial proceedings, despite the fact that the petitioner had already been acquitted on 27.07.2023, a fact within their knowledge. It was only thereafter, on further representation dated 12.09.2023, that respondent No. 3 requested release of gratuity, which was eventually released after an inordinate and unexplained delay. The petitioner alleges that the withholding of gratuity was illegal, arbitrary, discriminatory and contrary to service rules, and

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therefore seeks interest on the delayed payment of an amount of Rs.18,72,717/- from the date of his retirement till its actual release.

3. ***Contentions***

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner retired on 31.05.2020 after more than 36 years of satisfactory service, and although an FIR was registered against him along with other officials, the respondents have acted in a discriminatory manner by withholding only his gratuity, while similarly situated co-accused officials namely Ram Kishan Sangwan and Rajesh Sharma were granted promotions and full retiral benefits. It is argued that no departmental proceedings were ever pending against the petitioner, no pecuniary loss is attributable to him, and withholding gratuity is impermissible under Rule 12 in such circumstances. Counsel further submits that despite repeated representations and even a direction of this Court in CWP No. 10102 of 2023, the respondents wrongly rejected his claim on the ground of pending judicial proceedings, even though the petitioner had already been acquitted on 27.07.2023. The gratuity was released only after an inordinate and unexplained delay, and therefore the petitioner is entitled to interest on the delayed payment.

On behalf of the respondent/State

Learned State counsel opposes the petition and submits that the petitioner has not approached this Court with clean hands and has concealed material facts, rendering the present writ petition not maintainable. It is contended that there was no delay whatsoever on the part of the answering respondents in releasing the petitioner's retiral benefits, as all benefits, including provisional pension, were released strictly in

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accordance with the Haryana Civil Services (Pension) Rules, 2016. Learned State counsel argues that since a criminal case was pending against the petitioner at the time of his retirement on 31.05.2020, the respondents were legally barred under Rule 81 of the HCS (Pension) Rules, 2016 from releasing gratuity or commuted value of pension until the conclusion of judicial proceedings. It is further submitted that immediately after the petitioner's acquittal on 27.07.2023, the answering respondent wrote to the competent authority on 12.09.2023 requesting release of gratuity, which was thereafter sanctioned by Respondent No. 2 on 04.10.2023. Thus, the delay, if any, was solely on account of statutory restrictions and not attributable to the respondents. Learned State counsel asserts that the petitioner is not entitled to any interest, as the respondents acted promptly and strictly in accordance with rules, and that the allegations of arbitrariness and discrimination are unfounded and contrary to record.

4. ***Analysis***

Having considered the rival submissions and upon perusal of the record, this Court finds that the petitioner superannuated on 31.05.2020 after rendering more than 36 years of satisfactory service. It is not in dispute that no departmental proceedings were ever initiated or pending against him at the time of retirement. The only embargo on release of gratuity was the pendency of the criminal proceedings, which stood concluded on 27.07.2023 with the petitioner's acquittal. Notwithstanding this, the petitioner's representation was rejected on 07.08.2023 on the premise that judicial proceedings were still pending, although the fact of acquittal was clearly available with the authorities. The gratuity was eventually released only on 04.10.2023, after the petitioner again

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approached the respondents. Such unjustified delay, despite cessation of the statutory bar, reflects administrative negligence, if not apathy, and cannot be justified on the plea of compliance with the Haryana Civil Services (Pension) Rules, 2016.

The explanation furnished by the respondents that the delay occurred solely due to statutory restrictions is untenable after 27.07.2023, when the petitioner stood acquitted. The failure to process gratuity promptly thereafter, coupled with the earlier refusal of the representation on an incorrect factual premise, clearly establishes avoidable delay attributable to the respondents. Further, the petitioner has demonstrated that similarly situated co-accused officials were extended full retiral benefits, whereas his gratuity alone was withheld, which reinforces the plea of discriminatory treatment.

It is now firmly established through a series of judicial pronouncements that pension payable to a retired government servant is not a bounty depending upon the sweet will or pleasure of the government. Instead, it is a valuable right that accrues to an employee by virtue of the service rules governing their employment. In ***Deokinandan Prasad v. State of Bihar, AIR 1971 SC 1409***, the Supreme Court emphatically held that the right to pension flows from the statutory rules themselves. The Court observed that although the authorities may be required to pass certain orders for the limited purpose of quantifying the pension based on the period of service and other related considerations the entitlement to receive pension does not arise from such an order, but from the rules having statutory force.This principle has been reaffirmed in subsequent decisions. In ***State of Punjab v. Iqbal Singh, AIR 1976 SC 667,*** and ***State of Kerala***

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v. M. Padmanabhan Nair, AIR 1985 SC 356, the Supreme Court reiterated that pension is a statutory right and not a discretionary payment. The following observations from these decisions are particularly noteworthy:

> *"Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."*

A full Bench of this Court in ***A.J. Randhwa Supdg Engineer vs.State of Punjab and others, (1997) 117 PLR 6*** dealing with a question of entitlement to interest on delayed payment of retiral benefits held as under:

> 9. Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months front the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement. Again, as to what should be the rate of interest, it should, in our view, be generally 12% unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18%.

In view of the discussion above, it stands established that the delay in releasing the pensionary benefits and other consequential dues was entirely attributable to the respondents and not to any lapse on the part of the petitioner. The respondents, even in their written statement, have not alleged any conduct by the petitioner that could have contributed to such

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delay. Therefore, in light of the judicial pronouncements referred to earlier which fully apply to the facts of this case the writ petition is allowed to the extent of granting interest on the delayed payment of retiral benefits. The respondents are consequently held liable to compensate the petitioner for the belated release of his legitimate dues.

5.Conclusion

Applying these well-settled principles to the present matter, this Court holds that the petitioner cannot be denied interest merely because the gratuity has ultimately been disbursed. The delay occurring after 27.07.2023 is clearly attributable to the respondents, and since the petitioner was deprived of timely access to a substantial statutory benefit, he is entitled to reasonable compensation. Considering the overall circumstances, interest at the rate of 6% per annum is ordered from the date of his retirement until the actual release of gratuity, which would be just, fair, and proper.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

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

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