2025:PHHC:101916

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-22857-2025 (O&M)
Date of decision: 07.08.2025

Balbir Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Atinderpal Singh, Advocate
for the petitioners.

Mr. Vikas Arora, DAG, Punjab
for respondent No.1.

Mr. R.S. Kalra, Advocate
with Ms. Mona Yadav, Advocate
for respondent No.2.

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, is for quashing the order dated 04.04.2024 (Annexure P-15), denying gratuity to the petitioners at the enhanced rate at par with the employees of Punjab Government w.e.f. 01.01.2006 and for declaration that the petitioners are entitled to receive gratuity at the rate of Rs.10.00 lacs at par with the employees of Punjab Government w.e.f. 01.01.2006 and under Punjab Civil Services Rules, adopted by respondent No.2. Further prayer has been made to issue a writ in the nature of mandamus, directing the respondents to release the gratuity at the rate of Rs.10.00

lacs at par with the employees of Punjab Government w.e.f. 01.01.2006 and under Punjab Civil Services Rules, adopted by respondent No.2.

2. Learned counsel for the petitioners, inter alia, contends that admittedly all the petitioners retired from service between 01.01.2006 to 24.05.2010. The controversy involved in the present petition is with regard to payment of gratuity in terms of the decision taken by the Punjab Government vide Notification dated 17.08.2009. On 26.05.2010, the Government of Punjab issued circulars to all the Head of the Departments for implementation of the recommendation of 5th Punjab Pay Commission regarding the pension and other retiral benefits. The similarly situated employees in another cooperative undertaking in Punjab known as Punjab State Cooperative Supply and Marketing Federation Limited (hereinafter referred to as 'MARKFED') dealing with the supply and marketing of the food-grains items similar to the respondent/Corporation, the employees of MARKFED, who retired between 01.01.2006 to 31.07.2010 were given gratuity at the enhanced rate of Rs.10.00 lacs at par with the Punjab State Government employees. Petitioner No.1 moved a representation on 15.12.2023 to PUNSUP, claiming gratuity at the rate of Rs.10.00 lacs being at par with the employees, who retired after 01.01.2006. Thereafter, the petitioners filed a writ petition i.e. CWP No.19934 of 2024, claiming the same relief, however, the said petition was disposed of by this Court vide order dated 20.08.2024, after granting liberty to file afresh petition after approaching the respondents with the claim demand on behalf of the

petitioners as discernible from Annexure P-11. Thereafter, all the petitioners approached the respondents by moving a demand notice dated 10.12.2024 (Annexure P-10) through their counsel, however, the respondents replied and conveyed a decision taken on 04.04.2024, on the issue involved in the present petition.

3. Learned counsel for the petitioners further submits that the action of the respondents in not allowing gratuity at the enhanced rate of Rs.10.00 lacs to the petitioner w.e.f. 01.01.2006 at par with Punjab Government employees and also at par with the employees of MARKFED is arbitrary, illegal and discriminatory and thus, the same is liable to be quashed.

4. Per contra, learned State counsel as well as learned counsel for respondent No.2, appearing on advance notice, submits that the petitioners have earlier approached this Court by filing a petition i.e. **CWP No.19936 of 2024** titled as ***Balbir Singh and others vs State of Punjab and another***. The contention of the petitioners with regard to grant of liberty to file afresh petition after approaching the respondent/Corporation for the claimed demand is contrary to the order passed by this Court on 20.08.2024. The petitioners after arguing the case for some time, had withdrawn the petition and sought liberty to approach the department for redressal of their grievances, however, no liberty was granted to file afresh petition as contended by the petitioners. Further the controversy involved in the present petition is squarely covered by the decision of this Court in CWP No.6799 of 2017

and others connected cases, titled as Ravi Chand vs The Punjab State Civil Supplies Corporation Limited and another, decided on 01.05.2019. The operative part of the said judgment reads as follows:-

> *"The facts in the present case are different. There is no such resolution which has been passed by the PUNSUP giving the benefit of enhanced gratuity to its employees from 01.01.2006. The stand of the respondents is that a conscious possession has been taken by the respondent-Corporation to grant the benefit of the amended provisions of the Payment of Gratuity Act, 1972 as amended on 24.05.2010 prospectively of the employees, who were in service on the said date. Therefore, the judgment of this Court in* ***Nathu Ram's case (supra)*** *is not applicable in the present case.*
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> *Further, this Court had an occasion to decide the same question of law in respect of the employee of the Milk Fedreation (for short as 'the MILKFED'), who had also approached this Court for the grant of gratuity at higher rate w.e.f. 01.01.2006 as being paid to the employees of the MARKFED and the employees of the government of Punjab.*
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> *While deciding CWP No.28539 of 2018, titled as* ***Dhani Ram and others Vs. State of Punjab and others*** *decided on 24.01.2019, this Court held that as the employee of the MILKFED and the MILK Unions are an independent body and are governed by the Payment of Gratuity Act, 1972, the amendment in the Payment of Gratuity Act, 1972 by the Government of India on 24.05.2010, will only be applicable prospectively and the employees, who retired prior to the said date, will not be entitled for the benefit of higher gratuity as granted by the*

said amendment. The order passed in CWP No.28539 of 2018 is as under:

> *"In the present writ petition, the prayer which has been made by the petitioners is that the petitioners, who retired prior to 24.05.2010, should also be given the benefit of the amendment to the Payment of Gratuity Act, 1972 by which maximum ceiling of the gratuity was enhanced from 3.5 lacs to 10 lacs.*
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> *The petitioners are the employees of the Milk Fed and Milk Unions. They have retired from the service starting from the year 2007 onwards till 31.01.2010.*
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> *The prayer which has been made by the petitioners is that though they retired prior to the amendment carried out by the Government of India vide Act No. 15 of 2010 on 17.05.2010 enhancing the maximum ceiling under the Payment of Gratuity Act, 1972 from 3.5 lacs to 10 lacs, the same should be implemented retrospectively w.e.f. 01.01.2006 and the petitioners should be granted the said benefit. In this regard, the petitioners served a legal notice dated 20.11.2017 (Annexure P-11) and the said legal notice was decided by the respondents vide order dated 15.06.2018 (Annexure P-13) declining the claim of the petitioners, which order has been impugned by the petitioners in the present writ petition.*
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> *Learned counsel for the petitioners states that the petitioners are entitled for the grant of enhanced gratuity as per the Notification dated 17.08.2009 (Annexure P-2). Learned counsel for the petitioners states that as order dated 17.08.2009 (Annexure P-2) has been implemented w.e.f. 01.01.2006, the*

petitioners are entitled for the gratuity at the enhanced rate w.e.f. 01.01.2006.

The arguments of learned counsel for the petitioners is fallacious. Annexure P-2 is the Notification issued by the Government of Punjab by which the pay scales of the government employees were revised in the year 2009 w.e.f. 01.01.2006. The said Notification was issued in August, 2009 and does not talk of the grant of gratuity at a higher rate. This is for the reason that the amendment to the Payment of Gratuity Act, 1972 was done by the Government of India only on 17.05.2010, therefore, question of granting benefit of the enhanced gratuity to the employees vide Notification dated 17.08.2009 (Annexure P-2) is not at all possible.

Further, the petitioners are the employees of the Milk Fed and Milk Union, which are totally independent autonomous bodies. They are governed by their own Rules called 'The Cooperative Milk Producers Union Employees Service (Non-Common Cadre), Rules 1996'. Under Rule 19 of the said Rules, an employee is only entitled for gratuity as per the provisions of Payment of Gratuity Act, 1972. Relevant Rule 19 of the said Rules is as under :-

> *"19 GRATUITY: Every employee of the Milk Union, irrespective of the post held and salary drawn by him shall be entitled to the payment of gratuity as per the provisions contained in the Payment of Gratuity Act, 1972 and the rules framed there under, as may be in force from time to time. The calculations of gratuity*

shall be made on the basis of wages last drawn by him."

On the day when the petitioners retired, the maximum ceiling for the payment of gratuity was 3.5 lacs, which has already been paid to the petitioners. The amendment to the Act was prospective and on the day when the amendment was done to the Payment of Gratuity Act, 1972 by the Government of India on 17.05.2010, the petitioners were not in service and there is no retrospective operation of the said amendment. It can be safely said that as per the amendment, only the employees, who retired after the amendment, are entitled for the benefit of the enhanced gratuity ceiling as amended by the Government of India vide Act No. 15 of 2010 on 17.05.2010.

Further, it has been admitted by the counsel for the petitioners that the said relief has not been extended to anyone, who retired prior to 17.05.2010 by the respondent-Corporation. Therefore, once all the employees of the Milk Fed and Milk Unions are being treated in the same manner and there is no discrimination in respect of implementing the Notification issued by the Government of India amending the Payment of Gratuity Act, 1972 with prospective effect only, no grievance can be made by the petitioners.

As the petitioners had already retired from the service much prior to the date of amendment and no similarly situated person has been extended the said benefit, no interference is called for by this Court in *respect of the impugned order dated 15.06.2018 by which the claim of the petitioners is rejected.*

At this juncture, learned counsel for the petitioners states that the Milk Federation and Milk Union is the Government body for all intents and purposes as the same is being managed by a Managing Director, who is an IAS Officer. Counsel says that therefore, the Milk Federation should be treated as a Government Organization for all intents and purposes.

In this writ petition, there is no pleading as to why and how the said Milk Federation and Milk Union are to be treated as Government Organization. Merely an IAS Officer has been appointed to oversee affairs of an Autonomous Body on deputation, the same cannot be treated as a Government Organization for all intents and purposes. No fact has been brought to the notice of this Court, according to which it can be said that the Government has deep persuasive control on the Milk Fed and Milk Union as the case may be, so as to be treated as Government department and hence, in the absence of said material, no finding can be recorded, either for or against the said argument, which is primarily a factual assertion.

Learned counsel for the petitioners further states that the Markfed has granted the benefit of enhanced gratuity to its employees w.e.f. 01.01.2006. Counsel states that once Markfed has adopted the said amendment w.e.f. 01.01.2006, the same should automatically become applicable upon the other *autonomous body as well namely Milk Fed and Milk Union.*

Merely an autonomous body had passed a Resolution granting some benefits to its employees, the other autonomous body does not become bound to adopt the same irrespective of their functioning. Every autonomous body has right to decide its own pay structure and relief to its employees. If the Markfed has granted the said benefit to its employee, it does not become a precedent for the other autonomous body to follow the same. No benefit can be granted to the petitioners, who retired from Milk Fed/Milk Unions on the basis of a benefit which has been extended by Markfed to its employees.

In view of the above, the present writ petition is dismissed with no order as to cost. "

Counsel for the petitioner is unable to distinguish the case of the petitioners in this bunch of writ petitions from the case of the petitioners in CWP No.28539 of 2018 titled as ***Dhani Ram and others Vs. State of Punjab and others*** *in any manner.*

Under these circumstances, the claim of the petitioner for the grant of benefit of gratuity on higher limit of Rs.10 lakhs w.e.f. 01.01.2006 as per the amendment dated 24.05.2010, is not at all maintainable and cannot be accepted as no fault can be found in the impugned order by which the said claim of the petitioner has been rejected by the respondent-Corporation."

5. Learned counsel for respondent No.2 further submits that the claim of the petitioners at such a belated stage cannot be considered

and the petitioners could not provide any satisfactory reason to justify the delay in approaching this Court.

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

7. It is trite law that the delay in approaching this Court under Article 226 of the Constitution of India may be condoned if sufficient cause is indicated or a reasonable explanation is provided for the same. However, the facts of the matter at hand indicate otherwise. Learned counsel petitioners has failed to specify any compelling or extenuating circumstance which prevented the petitioners from approaching this Court for such a long time. Reference in this regard may be made to the judgment rendered by a three-Judge Bench of the Hon'ble Supreme Court in ***Chairman/Managing Director, U.P. Power Corporation Limited and Others vs. Ram Gopal (2021) 13 SCC 225***, wherein, the following was held:

> "*16.* ***Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time.*** *Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester.* ***Fence-sitters cannot be allowed to barge into Courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists****. On*

multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In ***SS Balu vs. State of Kerala****, this Court observed thus:*

> *"17.* ***It is also well settled principle of law that "delay defeats equity". ....*** ***It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.****"*
>
> *(emphasis added)*

8. Further, in ***Mrinmoy Maity vs. Chhanda Koley and others 2024 AIR SC 2717,*** the Hon'ble Supreme Court has categorically observed that the High Courts must factor in the delay, while exercising its discretionary powers under Article 226 of the Constitution of India. It was further opined that undue and unexplained delay may be reason enough to dismiss a petition as indolent litigants ought not to be encouraged by writ Courts. Further the controversy involved in the present case already stands settled by this Court in ***Ravi Chand's case (supra)*** whereby the relief claimed by the petitioner i.e. grant of gratuity on enhanced rates to similarly situated employees of the PUNSUP, was denied.

9. In view of the above discussions, this Court does not find it appropriate to invoke its extraordinary writ jurisdiction under Article

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226 of the Constitution of India. Accordingly, the present petition stands dismissed.

(HARPREET SINGH BRAR)
JUDGE

07.08.2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No