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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-25897-2025 (O&M)
Date of decision: 17.09.2025

Budh Singh

....Petitioner

Versus

Punjab State Power Corporation Limited through its Managing Director and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Pankaj Garg, Advocate for the petitioner.

Ms. Gurneet Sagoo, Advocate
for Ms. Ekom Pal Sagoo, Advocate for the respondents.

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 speaking order dated 23.07.2025 (Annexure P-4). Further a writ of *mandamus* has been sought, directing the respondents to release the gratuity to the petitioner along with interest @ 8% per annum and also to pay interest @ 8% on delayed payment of retiral benefits.

2. The brief facts of the case are that the petitioner, having served the Punjab State Power Corporation Limited with diligence for over 24 years, retired on 31.07.2024. Despite submission of all requisite documents on time, his gratuity remains withheld by the respondent/Corporation and other retiral dues such as GPF and leave encashment, were released only after substantial delay. The petitioner

made multiple representations, including one dated 13.02.2025, seeking release of the gratuity and interest on delayed payments. However, on failure of the respondents/Corporation to act upon the same, he approached this Court by way of filing a writ petition i.e. CWP-6746-2025, which was disposed of on 11.03.2025 with a direction to the respondents to decide the representation of the petitioner. Despite issuance of a legal notice dated 25.05.2025, the respondents eventually passed a speaking order dated 23.07.2025 (Annexure P-4) rejecting the claim of the petitioner. Hence, this writ petition.

3. Learned counsel for the petitioner*, inter alia,* contends that GPF and leave encashment were released on 08.10.2024 and 14.11.2024, respectively, although the petitioner has retired on 31.07.2024. There is no denial to the fact that at the time of retirement no departmental enquiry or any criminal proceedings before any competent Court of law was pending and as such, in the absence of any charge-sheet in the departmental proceedings or framing of charges by the competent Court of law, the withholding of the gratuity by the respondent/Corporation is not backed by any legislative mandate. He further submits that the complaint, which was filed by one Harnek Singh attached with the reply as Annexure R-1, does not indicate the date, time and place, on which the petitioner has demanded bribe. Further, till date even FIR has not been registered in spite of passing of almost eighteen months. He further contends that the law on the issue is well settled that gratuity is a statutory and vested right and cannot be

withheld merely on the ground that an inquiry is pending, unless specific conditions prescribed under law are fulfilled. Therefore, the action of the respondent/Corporation in withholding the gratuity is wholly arbitrary and illegal.

4. *Per contra,* learned counsel for the respondents has placed on record the short reply on behalf of respondents No.1 to 5, which is taken on record. She submits that gratuity of the petitioner has been withheld on account of pendency of the complaint (Annexure R-1). Till date, the Vigilance Bureau of the Government of Punjab, has not issued the 'No Objection Certificate' and the case of the petitioner would be processed as and when the 'No Objection Certificate' is issued by Vigilance Bureau. As such, the gratuity of the petitioner has rightly been withheld by the respondent/Corporation on account of pendeny of complaint and the claim of the petitioner is liable to be rejected.

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

6. It is a settled principle of law that **the position is to be seen on the day when an employee retires**. In case, there are disciplinary or criminal proceedings are pending against an employee on the date of retirement, respondents will be well within their right to withhold the gratuity as well as the leave encashment. As per the settled principle of law laid down by Hon'ble Supreme Court of India in ***Union of India and others vs K. V. Jankiraman and others, 1991 (3) SCT 317***, the proceedings can only be termed as

pending in case a charge sheet is served in a departmental proceeding or the charges have been framed in a criminal proceeding by the Competent Court of Law. The relevant paragraph of the judgment is as under:-

> *"16. On the first question, viz., as to when for the purposes of the sealed cover procedure the disciplinary/criminal proceedings can be said to have commenced, the Full Bench of the Tribunal has held that it is only when a charge-memo in a disciplinary proceedings or a chargesheet in a criminal prosecution is issued to the employee that it can be said that the departmental proceedings/criminal prosecution is initiated against the employee. The sealed cover procedure is to be resorted to only after the charge-memo/charge-sheet is issued. The pendency of preliminary investigation prior to that stage will not be sufficient to enable the authorities to adopt the sealed cover procedure. We are in agreement with the Tribunal on this point. The contention advanced by the learned counsel for the appellant-authorities that when there are serious allegations and it takes time to collect necessary evidence to prepare and issue charge-memo/charge-sheet, it would not be in the interest of the purity of administration to reward the employee with a promotion, increment etc. does not impress us. The acceptance of this contention would result in injustice to the employees in many-cases. As has been the experience so far, the preliminary investigations take an inordinately long time and particularly when they are initiated at the instance of the interested persons, they are kept pending deliberately. Many times they never result in the issue of any charge-memo/chargesheet. If the allegations are*

> *serious and the authorities are keen in investigating them, ordinarily it should not take much time to collect the relevant evidence and finalise the charges. What is further, if the charges are that serious, the authorities have the power to suspend the employee under the relevant rules, and the suspension by itself permits a resort to the sealed cover procedure. The authorities thus are not without a remedy."*

7. Admittedly, in the present case, neither there was any charge-sheet pending against the petitioner on the date of his retirement nor there was any proceeding pending before any competent Court of law where, charges have been framed against the petitioner, so as to entitle the respondents to withhold the pensionary benefits of the petitioner. Therefore, the position is clear that on the date of the retirement of the petitioner on 31.07.2024, there were no proceedings pending against the petitioner, which would have entitled the respondents to withhold the pensionary benefits.

8. The question as to whether, the issuance of a charge-sheet or putting up of a challan after the retirement of an employee will entitle the respondents to withhold his/her retiral benefits which they are bound to release immediately after retirement. This question came up for consideration before this Court while deciding **CWP No. 3493 of 1986** on **13.11.1995** titled as ***L.R. Dhawan Vs. State of Haryana and others***, wherein this Court has held that the gratuity is payable to an employee on the date of retirement and the said payment can only be deferred in case an employee is facing departmental enquiry or judicial proceedings

on the date of retirement but in case no judicial proceeding or departmental enquiry is pending on the date of his/her retirement, there is no authority with the employer/government to withhold the payment of the gratuity. The relevant paragraph of the said judgment is as under:-

> *"4. Gratuity due to an employee is payable to him on the date of retirement. Payment of the gratuity can be deferred in a case where the employee is under cloud at the time of his retirement, namely, in a case where he is facing departmental inquiry or judicial proceedings. If no inquiry of judicial proceeding is pending on the date of retirement of the employee, the Government/employer does not have any authority to withhold the payment of gratuity. Similarly, full pension payable to an employee can be withheld during the pending of the departmental inquiry or judicial proceedings. The Government is also possessed with the power to withhold the pension or a part thereof or recover any pecuniary loss caused to the Government from the pension payable to an employee in case such Government servant is found guilty of grave misconduct or negligence in the discharge of his duties during the course of service. Deduction from the pension can be made even on the basis of an inquiry which may be initiated against the employee after his retirement but subject to the fulfillment of the conditions enumerated in proviso to Rule 2.2 (b). However, proceedings initiated against an employee under proviso to Rule 2.2(b) cannot be made a ground for withholding of death-cum-retirement gratuity or the pension payable to an employee on the date of his retirement. In the case in hand, no inquiry was pending against the petitioner on the date of his retirement. The proceedings have been initiated against him after over*

three years and nine months of his retirement from service. That may ultimately lead to the withholding of the pension or part thereof or recovery therefrom in terms of Rule 2.2(b) but there does not appear to be any legal justification for withholding of death-cum retirement gratuity payable to the petitioner on the ground that inquiry has been initiated against him under Rule 2.2(b) with the issue of notice dated 26.12.1986."

9. The same question again came up for consideration before this Court in **CWP No. 20687 of 2012**, titled as ***Amarjit Singh Vs. Punjab State Civil Supplies Corporation Limited and another***, on **06.05.2016**. This Court again held, after relying upon ***L.R. Dhawan's case (Supra)***, that in case there is no charge-sheet pending on the date of retirement, gratuity could not have been withheld. This Court further held that issuance of a charge-sheet under 2.2 (b) of the Punjab Civil Services Rules Vol. II, subsequent to the retirement, the gratuity of an employee cannot be withheld. The relevant paragraph of the said judgment is as under:-

"2. To the extent gratuity is claimed by the petitioner, this petition must succeed. To claim such benefit, learned counsel for the petitioner relies appropriately on the case law in ***Narinder Dev Sharma Vs. State of Punjab & another, 1996 (1) SCT 623; L.R.Dhawan Vs. State of Haryana & others, 1996 (3) SCT 11 and Ram Narain Dua Vs. Dakshin Haryana Bijli Vitran Nigam Ltd. & others, 2007 (1) SCT 161***. *This is because the respondents admit that no charge-sheet was served on the petitioner prior to his retirement and therefore, gratuity could not*

have been withheld. Neither can gratuity be withheld by initiating inquiry under Rule 2.2(b) of the Punjab Civil Services Rules, Volume II after employee retires and departmental proceeding were not contemplated during service. This is for the reason that gratuity is a one-time payment which falls due and payable on the date of retirement and is not a recurring right like pension. However, an enquiry based on a charge-sheet issued after retirement under Rule 2.2 (b) can be conducted and concluded. The charge-sheet was issued in this case on 02.04.2013 for an incident of alleged misconduct which occurred during the period 2009-10, while the petitioner retired from service on 30.04.2011. To that extent no court directions are called for in this petition to draw the curtains on the departmental proceedings.

3. For the foregoing reasons, this petition is allowed while setting aside the impugned decision withholding gratuity for no rhyme or reason. Since the amount of gratuity has been withheld for the wrong reason, the petitioner would be entitled to interest on delayed payment @ 8.7% p.a. i.e. the rate payable on long term fixed deposits sitting invested in nationalized Banks."

10. The Division Bench of this Court also had an occasion to consider the said question of law while deciding **CWP No. 8095 of 2005**, titled as ***Ram Narain Dua Vs. Dakshin Haryana Bijli Vitran Nigam Ltd. and others***, on **21.09.2006**. This Court again held that the amount of gratuity payable to an employee cannot be withheld keeping in view the allegations, which have been alleged against him after the

date of retirement. The relevant portion of the said judgement is as under:-

> *"2. Having heard the learned counsel for the parties, we are of the considered view that the respondents could not have with-held any amount of gratuity payable to the petitioner on account of allegation which have emanated after the date of his retirement. Such a course is not available to the respondents. In some what similar circumstances, this Court has earlier also in the case of Hans Raj Sharma v. Uttar Haryana Bijli Vitran Nigam Limited and others (Civil Writ Petition No. 152 of 2004, decided on October 29, 2004) has allowed the writ petition by following the judgment of Hon'ble the Supreme Court in P.R. Naik v. Union of India, AIR 1972 SC 554. It has been laid down in the aforementioned judgment that issuance of charge sheet for initiation of departmental enquiry is a sine qua non.*
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> *In view of the above, we allow the writ petition and quash the impugned order dated March 1, 2005 (P-15). We further direct the respondents to release the 100% pension, arrears of pension, gratuity and commutation of pension amount to the petitioner within a period of one month from the date a certified copy of this order is presented to the respondents. In case, the needful is not within one month, then the petitioner shall be entitled to interest at the rate of 6% per annum from the date the amount is payable till its actual payment."*

11. The same question was again considered by this Court while deciding **CWP No. 13449 of 2014**, titled as ***Hans Raj Versus Registrar, Cooperative Societies, Punjab and others***, on **24.05.2017**.

This Court again held that a charge-sheet which has been served upon an employee after his/her retirement, cannot give a right to the employer to withhold the gratuity as the position is to be seen on the date of retirement and not subsequent. The relevant portion of the said judgment is as under:-

> *"Now, the further question would arise as to whether the gratuity of the petitioner could be withheld or not?*
>
> *The petitioner retired from service on 30.9.2012. Charge sheet was served upon him on 11.4.2014 i.e. after more than one and half years of the said retirement. The gratuity is otherwise required to be released immediately on the retirement. It goes to show that the gratuity of the petitioner was probably not released immediately on account of the impending charge sheet. Petitioner is getting provisional pension and if the department finds that the charges are proved, they are always at liberty to impose a cut in the pension. However, the gratuity of the petitioner cannot be withheld for indefinite period on the basis of the charge sheet which is issued after more than one and half years of his retirement.*
>
> *Accordingly, the present writ petition is partly allowed to the extent that the gratuity of the petitioner is ordered to be released with interest @ 9% per annum starting three months from the date of retirement till the date of actual payment."*

12. In the present case, the petitioner stood retired on 31.07.2024 and at the time of retirement, neither any departmental enquiry or criminal proceedings were initiated against him by any competent authority nor any charge-sheet or formal notice has been

issued to him till date. The respondents' sole justification for withholding the gratuity is pending investigation based on a vague complaint which has not even resulted in registration of an FIR, after a considerable lapse of time.

13. Learned counsel for the petitioner claims interest on the gratuity amount, which is sought to be released now raising a plea that he was entitled for the said benefits immediately on his retirement. Keeping in view the settled principle of law noticed before, withholding of the gratuity by the respondents was beyond their jurisdiction from the day one. Despite the settled principle of law, the respondents have withheld the amount of gratuity for which the petitioner became entitled on day of his retirement, for the last about five years. A Full Bench of this Court in ***A.S. Randhawa vs. State of Punjab and others, 1997(3) SCT 468***, has held that an employee is entitled for the release of the pensionary benefits within a reasonable time after retirement and the reasonable time as enumerated by the Full Bench of this Court in ***A.S. Randhawa's case (supra)*** is two months after retirement. The relevant paragraph of the said judgment is as under:-

> *"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."

14. Not only this, the Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, has held that where an amount for which an employee is entitled has been retained by a department and used, the employee will be entitled for interest. The relevant portion of the said judgment is as under:-

"The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."

15. In the present case, the petitioner retired on 31.07.2024, and despite the lapse of over 01 year and 01 month, the gratuity has not yet been released. Accordingly, the petitioner is entitled to receive interest on the delayed payment for this entire period.

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16. Learned counsel for the respondents is unable to dispute that keeping in view the settled principle of law, withholding of the gratuity amount of the petitioner was beyond the jurisdiction of the respondents. In the facts and circumstances as recorded above, the petitioner shall also be entitled for interest at the rate of 6% per annum from the date, the amount gratuity became due till the release of the same by the respondents. Let the interest be also calculated while releasing the gratuity amount.

17. This order is only for the direction to release the gratuity. The respondents and the Vigilance Bureau, Government of Punjab shall be well within their right proceed against the petitioner with regard to the complaint (Annexure R-1) filed by Harnek Singh, which is pending against him keeping in view the provisions governing the service and settled principles of law. This Court is expressing no opinion about the pendency of the complaint (Annexure R-1) and the allegations alleged therein in the present proceedings.

18. Consequently, the writ petition is allowed, the impugned order dated 23.07.2025 (Annexure P-4) is quashed and the respondents are directed to release the petitioner's gratuity along with interest @ 6% per annum on the delayed payment forthwith, as discussed hereinabove.

(HARPREET SINGH BRAR)
JUDGE

17.09.2025
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No