



CWP-26887-2025

-1-

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

106

CWP-26887-2025

Date of Decision: 18.11.2025

Pahara Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Piyush Setia, Advocate for the petitioner

Mr. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking directions to respondents to release his gratuity along with interest.

2. Learned counsel for the petitioner *inter alia* submits that respondent has wrongly withheld gratuity of the petitioner. He was suspended from service on 09.08.2023 and implicated in FIR No.161 dated 10.08.2023 under Sections 7 and 8 of Prevention of Corruption Act, 1988 registered at Police Station Jagroan, District Ludhiana. He was reinstated on 30.01.2024 and retired on 31.01.2024 on attaining the age of superannuation. He has been granted provisional pension, however, gratuity is withheld. The petitioner at present is not facing any departmental proceedings. He was subjected to punishment of forfeiture of one increment vide order dated 31.08.2024 passed by Senior Superintendent of Police, S.B.S. Nagar. He did

not file appeal against the said order, thus, it has attained finality. He was



CWP-26887-2025

-2-

implicated in aforesaid FIR, however, till date police report has not been filed against him.

3. Short reply by way of affidavit dated 14.11.2025 of Sh. Iqbal Singh, P.P.S. Superintendent of Police (Headquarter), District S.B.S. Nagar is taken on record. Registry is directed to tag the same at an appropriate place.

4. Learned State counsel submits that petitioner was subjected to departmental proceedings and awarded punishment of forfeiture of one increment. The departmental proceedings have concluded, however, criminal proceedings are still pending, thus, gratuity cannot be released. As per Rule 2.2(c) and 9.14 of Volume II of Punjab Civil Services Rules (for short '**Rules**'), gratuity cannot be released till the conclusion of criminal proceedings.

5. On being asked, learned State counsel conceded that till date Investigating Officer has not filed police report in terms of Section 193(3) of Bharatiya Nagarik Suraksha Sanhita, 2023.

6. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

7. The respondent has withheld gratuity relying upon Rule 2.2(b), 2.2 (c) and 9.14 of Punjab Civil Services Rules. Rules 2.2(b), 2.2 (c) and 9.14 are reproduced as below:

“Rule. 2.2(b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government,



if, in a departmental or judicial proceeding, the pensioner is found guilty of grave mis-conduct or negligence during the period of his service, including service rendered upon re-employment after retirement: -

Provided that-

(1) Such departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, be deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service;

(2) Such departmental proceedings, if not instituted while the officer was in service whether before his retirement or during his re-employment-

(i) shall not be instituted save with the sanction of the Government;

(ii) shall not be in respect of any event which took place more than four years before such institution; and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service.

(3) No such judicial proceedings, if not instituted while the officer was in service, whether before his retirement or during his re-employment shall be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution; and-

The Public Service Commission should be consulted before final orders are passed.

Explanation.—For the purpose of this rule-



- (a) *a departmental proceeding shall be deemed to be instituted on the date on which the statement of charges is issued to the officer or pensioner, or if the officer has been placed under suspension from an earlier date, on such date; and*
- (b) *a judicial proceeding shall be deemed to be instituted-*
- (i) *in the case of a criminal proceeding, on the date on which the complaint or report of the police officer on which the Magistrate takes cognizance, is made; and*
- (ii) *in the case of a civil proceeding, on the date of presentation of the plaint in the court.*

Note:- As soon as proceedings of the nature referred to in the above rule are instituted, the authority which institutes such proceedings should without delay intimate the fact to the Accountant-General. The amount of the pension withheld under clauses (b) should not ordinarily exceed one-third of pension originally sanctioned, including any amount of pension to be so withheld, regard should be had to the consideration whether the amount of the pension left to the pensioner in any case would be adequate for his maintenance.

2.2(c) (1) Where any departmental or judicial proceeding is instituted under clause (b) of rule 2.2 or where a departmental proceeding is continued under clause (i) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceedings, final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement or if he was under suspension on the date of retirement up to date immediately proceeding to the date on which he was placed under suspension; but



no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and of final orders thereon.

The gratuity, if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of final orders by the competent authority:

Provided that where Departmental proceedings have been instituted under rule 10 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 for imposing any of the penalties specified in clauses (i), (ii) and (iv) of rule 5 of the said rules, the payment of gratuity or death-cum-retirement gratuity, as the case may be, shall not be withheld.

(2) Payment of provisional pension made under subclause (1) shall be adjusted against the final retirement benefits sanctioned to such officer upon conclusion of the aforesaid proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.

Note.-The grant of pension under this rule shall not prejudice the operation of rule 6.4 ibid when final pension is sanctioned upon conclusion of the proceedings.

XXXX

XXXX

XXXX

XXXX

Rule 9.14 - Provisional pension where departmental or judicial proceedings may be pending

(1) (a) In respect of Government employee referred to in clause (c) of rule 2.2, the Head of Office shall authorise the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government employee or if he was under suspension on the date of retirement, up to the date immediately preceding the date on which he was placed under suspension.



(b) The provisional pension shall be authorised by the Accountant-General, Punjab during the period commencing from the date of retirement up to and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.

(c) No gratuity shall be paid to the Government employee until the conclusion of the departmental or judicial proceedings and issue of final order thereon:

Provided that where departmental proceedings have been instituted under rule 10 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, for imposing any of the penalties specified in clauses (i), (ii) and (iv) of rule 5 of the said rules, the payment of gratuity shall be authorised to be paid to the Government employee.

(2) Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government employee upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.”

[Emphasis Supplied]

8. From the perusal of above quoted rules, it is quite evident that in case of pendency of departmental or judicial proceedings, gratuity or death-cum-retirement gratuity cannot be released till the conclusion of the proceedings. The respondent, during the course of hearing, as well as in the reply has not pleaded that departmental proceedings are pending against the petitioner. The only ground of withholding gratuity is that criminal proceedings are still pending.

9. The respondent is relying upon afore-cited rules to withhold



CWP-26887-2025

-7-

during the pendency of criminal proceedings. Rule 9.14(1)(c) mandates “no gratuity shall be paid to the Government employee until the conclusion of the departmental or judicial proceedings and issue of final order thereon”. Rule 2.2(c)(1) provides “but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and of final orders thereon”. Both the rules are applicable where departmental or judicial proceeding is instituted under clause (b) of Rule 2.2. Clause (b) of rule 2.2 empowers government to withhold pension if departmental or judicial proceedings culminate in holding the employee guilty of grave mis-conduct or negligence during the period of service. Thus, Rule 2.2(b) is applicable after final adjudication whereas Rule 9.14 and Rule 2.2(c) are interim measures. The proceedings either departmental or criminal which would form underpinning to withhold/deny pension and gratuity are contemplated in Rule 2.2(b). Clause (b) of explanation to Rule 2.2(b) clarifies that judicial proceedings may be criminal or civil. Criminal proceedings are deemed to be instituted on the date on which Magistrate takes cognizance on the complaint or police report. The civil proceedings are deemed to be instituted on the date of presentation of the plaint.

10. In the case in hand, the Investigating Officer till date has not filed police report. As per explanation of Rule 2.2(b) of the Rules, criminal proceedings are deemed to be instituted on the date on which Magistrate takes cognizance on the police report. Leaving aside cognizance, the police has not filed its report, thus, judicial proceedings as contemplated by Rule 2.2(b) of the Rules neither were instituted on the date of retirement nor as on day. In the absence of institution of judicial proceedings against the petitioner, there was no occasion to withhold gratuity invoking Rule 2.2(c)

**CWP-26887-2025****-8-**

11. In the wake of above discussion and findings, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The respondents are directed to release gratuity of the petitioner within two months from today failing which they would be liable to pay interest @ 7.5% per annum from the date of expiry of aforesaid period till actual payment.

(JAGMOHAN BANSAL)
JUDGE

18.11.2025*Mohit Kumar*

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