



CWP-2738-2026

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

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CWP-2738-2026

Date of Decision: 18.02.2026

Balkar Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Karan Singla, Advocate for the petitioner

Mr. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. Reply by way of affidavit dated 17.02.2026 of Balraj Singh, P.P.S. Deputy Superintendent of Police, Headquarters, Amritsar Rural filed on behalf of respondent-State is taken on record. Registry is directed to tag the same at an appropriate place.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of letters whereby office of respondent No.4-Accountant General (A&E), Punjab has asked office of respondent No.3-Senior Superintendent of Police, Batala to resubmit his case along with '*No Judicial Proceeding Pending Certificate*.' He is further seeking release of regular pension and gratuity.

3. The petitioner was appointed as Constable in Punjab Police on 12.05.1986. He rose through the ranks. He superannuated holding the post of Inspector on 30.09.2024. He was implicated in FIR No.161 dated 27.07.2020 under Section 221 of Indian Penal Code, 1860 (for short '**IPC**') registered at Police Station Sri Hargobindpur and FIR No.66 dated

20.05.2022 under Section 304-A IPC registered at Police Station



Hargobindpur. The Pension Payment Order was authorized by competent authority on 16.08.2024. The investigating agency filed cancellation report in both FIRs. The petitioner was served summoning order dated 03.06.2024 passed by trial Court in FIR No.161 dated 27.07.2020. The said order has been kept in abeyance vide order dated 19.05.2025 passed by this Court. Respondent No.3 vide letter dated 11.08.2025 submitted that petitioner was found innocent in both the aforesaid FIRs. Respondent No.4 vide letter dated 09.06.2025 returned his pension papers for want of '*No Judicial Proceeding Pending Certificate*'.

4. Learned counsel for the petitioner *inter alia* contends that case of the petitioner is squarely covered by judgment dated 25.07.2025 passed by this Court in ***Suresh Kumar Sharma v. State of Haryana, CWP No.15069 of 2019***. The petitioner was found innocent by Investigating Officer, however, trial Court summoned him under Section 319 of Cr.P.C. He has filed petition against summoning order before this Court which has stayed further proceedings before the trial Court. Thus, as on day, no case is pending against him.

5. Learned State counsel submits that judgment cited by the petitioner is inapplicable because petitioner retired on 30.09.2024 and he was summoned by trial Court under Section 319 Cr.P.C. on 06.06.2024. He was summoned by trial Court before the date of retirement, thus, judicial proceedings as contemplated by Rule 2.2(b) of Punjab Civil Service Rules (for short '**Rules**') were pending against him. He could not be released gratuity though he has already been granted 100% provisional pension, GPF and leave encashment. The respondent has withheld only gratuity which is



6. Heard the arguments and perused the record.
7. The respondent has withheld gratuity relying upon Rule 2.2(b), 2.2 (c) and 9.14 of Punjab Civil Services Rules which for the ready reference are reproduced as:

“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.

[Emphasis supplied]

Rule 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 sub-clause (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.

[Emphasis supplied]

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.

9. A Full Bench of this Court in ***Dr. Ishar Singh v. State of Punjab and another, 1993 SCC OnLine P&H 49*** had occasion to advert to



question of release of retiral benefits including gratuity. The Court in Para 79 has laid down following principles:

“(i) The Government has no right to withhold or postpone pension or the payment on account of commutation of pension. The State is bound to release 100 per cent pension at the time of superannuation, may be provisional.

(ii) The Government can withhold the gratuity or other retiral benefits except pension or postpone payment of the same during pendency of an enquiry.

(iii) Pension cannot be adversely affected before a finding of guilt is returned.

(iv) The Government can initiate Departmental enquiry after long lapse before retirement, rather there is no limitation for initiating the departmental enquiry from the date of incident before retirement. The delay and the explanation for the same may reasonably be taken note of keeping in view its likelihood to cause prejudice to the delinquent if the enquiry is challenged in appropriate proceedings.

(v) The enquiry proceedings cannot be quashed solely on the ground of long pendency.

(vi) There is no effect of superannuation on the pendency of the enquiry proceedings.

(vii) The recovery of the Government dues can be made from gratuity or other retiral benefits only.”

10. Hon’ble Supreme Court while adverting to similar question in ***The Secretary, Local Self Government Department & others v. K. Chandran and others, 2022 (12) SCC 104*** has held that appeal is continuation of trial and in case an employee has been convicted and appeal is pending, he cannot be released gratuity/death cum retirement gratuity. The relevant extracts of the judgment reads as:



“On the conviction in a criminal case for violation of integrity norms in performance of official duties and an appeal pending before the High Court, is the employee still entitled to the release of his death-cum- retirement gratuity (for short “DCRG”) is the moot point arising for consideration in the present appeals. We are, in fact, examining a Full Bench judgment of the Kerala High Court which resolved the conflict of view of the Division Benches and ruled in favour of the employees. The controversy having been set down, the Government of Kerala, which is naturally aggrieved by the decision of the Full Bench is before us on the aforesaid issue.

2. In the main appeal before us, the question of law is the same but the facts differ in the two cases of the two employees.

3.(A) K. Chandran, the respondent in the appeal was working as Village Extension Officer, Noolaphuza. In the course of his employment the Vigilance Department registered a crime under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1998 (hereinafter referred to as “the PC Act”) alleging that he had received Rs 500 as bribe from one K.K. Mohanan. Mr Chandran was suspended from service on 27-10-2006 and was reinstated in service on 1-3-2008. He retired from service on 31-3-2011 on superannuation while working as the General Extension Officer in Wayanad.

4. The Inquiry Commissioner and Special Judge, Kozhikode convicted K. Chandran vide judgment dated 29-7-2011 in CC No. 13 of 2008 and sentenced him to undergo rigorous imprisonment (for short “RI”) for 2 years and a fine of Rs 5000. Aggrieved by the same, K. Chandran filed an appeal before the High Court of Kerala, which was registered as Crl. A. No. 6053 of 2013. The appeal was admitted and the sentence was suspended in the meantime.

5. K.Chandran submitted a request before the Accountant General to release his DCRG in 2014. On not receiving a favourable response, he filed an application numbered OA



(EKM) No. 104 of 2014 before the Kerala Administrative Tribunal (for short “KAT”), which dismissed his application on 9-12- 2014 on the ground that judicial proceedings had been concluded and K. Chandran had been convicted. The issue which arose pertained to the intent and purport of Rule 3-A of Part III of the Kerala Service Rules (for short “KSR”), which was stated to require the outcome of departmental or judicial proceedings to be concluded for the release of DCRG. Thus, if the criminal case went against K. Chandran, it had to be withheld or otherwise it had to be released. It was opined that K. Chandran being a convict and that too for receiving a bribe, could not claim entitlement to the DCRG and, thus, accepting his application would defeat the very purpose of the Rule.

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40. We also believe that it is a very restrictive view to disburse DCRG on account of the proceedings against a pensioner coming to an end, even where a conviction has arisen. This is especially so where the convicted person has availed of the remedy of appeal. An appeal is a continuation of the proceedings in trial and would be, thus, a continuation of judicial proceedings. For example, if no appeal had been filed, can it be said that despite conviction in the criminal case, the State is without authority of forfeiting the DCRG or pension for that matter? If it is not so, as we believe, then the pendency of the appeal cannot disentitle the State from withholding the DCRG, considering that it is a hiatus period within which certain arrangements have to be made which would be dependent on the outcome of the appeal.”

11. A Full Bench of this Court in ***Punjab State Civil Supplies Corporation Limited and others v. Pyare Lal, 2012 SCC OnLine P&H 21595*** while adverting with Rule 2.2 (c) of Punjab Civil Service Rules (Volume-II) has noticed that gratuity or death-cum-retirement gratuity and no other retiral benefits can be withheld.



12. The respondent is relying upon afore-cited rules to withhold gratuity. Rule 9.14 and 2.2(c) stipulate that gratuity would not be released 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.

13. Rule 2.2(b) is applicable if employee is held guilty of grave mis-conduct or negligence during the period of his service. It means the alleged act must be conducted during the period of his service. At the first blush, it appears that grave mis-conduct may not be connected with official duty e.g. if offence of murder or rape is committed at home and employee is held guilty, he would be covered by expression grave conduct. If an employee during his service is put behind the bars for such an offence, he is likely to be dismissed from service because offence even outside the official duty entailing conviction is treated as mis-conduct. Proviso 3 of rule 2.2(b)



provides that no '*such judicial proceeding*' if not instituted while in service shall be instituted in respect of a cause of action which arose more than 4 years before such institution. In sub-rule (3), expressions '*such*' preceding '*judicial proceedings*' has been used. The expression '*judicial proceedings*' has been clarified by Explanation of Rule 2.2(b). Expression '*judicial proceedings*' has been used in Rule 2.2(b). The conjoint reading of Rule 2.2(b), its proviso and explanation makes it clear that in case of criminal proceedings, it should be in the Court. Proviso 3 of Rule 2.2(b) provides that such proceedings if not initiated while in service, cannot be instituted against a retired person after 4 years from the date of cause of action or date of event. In case, an offence is committed outside the official duty, criminal proceedings are not instituted by department and there cannot be limitation period. If offence of murder/rape is committed, criminal law can be put into motion even after 10 years. There is no limitation period. By envisaging limitation of four years, the Legislature has made it clear that proceedings should be concerned with department. There are many offences which are relating to official duty e.g. embezzlement of funds, theft of official property, mis-use of official duty, leakage of secret information etc. Thus, it can be safely concluded that criminal proceedings must be relating to official duty. An offence which is totally unrelated to official duty is not contemplated by Rule 2.2(b).

14. In the instant case, the petitioner was implicated in two FIRs. He was found innocent by Investigating Agency in both the FIRs. Cancellation report was filed. In first case i.e. FIR No.161 dated 27.07.2020, the Magistrate accepted cancellation report, however, Magistrate refused to accept cancellation report in second case i.e. FIR No.66 dated 20.05.2022.



The said FIR related to custodial death. The alleged crime was directly linked to official duty, thus, it was duly covered by Rule 2.2(b). The Magistrate summoned him under Section 319 Cr.P.C. vide order dated 06.06.2024. He preferred revision which came to be dismissed by learned Additional District and Sessions Judge, Gurdaspur. He preferred CRM-M-10753-2025 before this Court under Sections 482 Cr.P.C. read with Section 528 BNSS wherein notice of motion was issued. He preferred CRM-18936-2025 in aforesaid petition seeking stay of proceedings before the trial Court. This Court vide order dated 19.05.2025 has ordered to keep the proceedings pending before trial Court in abeyance.

The petitioner is claiming that on account of interim order dated 19.05.2025 passed by this Court whereby proceedings before trial Court has been stayed, rigor of Rule 2.2(c) read with Rule 9.14 cannot be invoked. As on day, on account of stay granted by this Court, no judicial proceeding is pending against him. The proceedings are deemed to be pending on the date charges are framed. He has been summoned under Section 319 Cr.P.C, however, charges are not framed, thus, explanation to Rule 2.2(b) espouses his cause.

The aforesaid contention of petitioner is misconceived. At the cost of repetition, however for the sake of clarity, relevant extracts of explanation to Rule 2.2(b) are reproduced as below:

“Explanation.—For the purpose of this rule-

- (a) XXXX XXXX XXXX XXXX
- (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.”*

From the perusal of above quoted explanation, it is clear that a judicial proceeding is deemed to be instituted on the date on which report of the police officer is made. It is apt to mention here that legislature has not mandated that judicial proceeding would be deemed to be instituted on the date of taking cognizance or date of framing charge whereas legislature has used words “*date on which complaint or police report is made*”. Had there been intention to declare that judicial proceeding shall be deemed to be instituted on the date of taking cognizance, there was no reason to use expression ‘*is made*’ in the aforesaid explanation. Intention of the legislature is very clear. It is settled law that if language of any provision is unambiguous, plain reading should be preferred and no external aid should be taken. The language of aforesaid explanation is quite clear. It simply requires filing of police report. It does not require framing of charge or taking cognizance by Magistrate. Clause (ii) of explanation deals with civil proceedings. It provides that date of presentation of the plaint is relevant. The said clause further makes position clear *qua* criminal proceedings.

15. In the case in hand, the police filed cancellation report. The petitioner retired on 30.09.2024 and trial Court issued summons under Section 319 Cr.P.C. on 03.06.2024. Had trial Court issued summons after 30.09.2024, the claim of petitioner could be justified whereas trial Court has issued summons on 03.06.2024 i.e. prior to his date of retirement. Summoning by trial Court as additional accused by no stretch of imagination can be brought out of purview of pending criminal proceeding contemplated by explanation to Rule 2.2(b). Rule requires mere filing of

complaint or police report. In the case of petitioner, police filed cancellation

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report which culminated in his summoning by trial Court as additional accused. The alleged offence was directly linked with his official duty and trial Court has summoned him prior to retirement, thus, his case squarely falls within clutches of Rule 2.2(b) read with 9.14 of Punjab Civil Services Rules.

16. In the wake of above discussion and findings, this Court is of the considered opinion that petitioner at this stage cannot be released gratuity. He can lodge his claim the moment summoning order is either quashed by this Court or he is otherwise acquitted/exonerated by Court of competent jurisdiction.

17. In the backdrop, the petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

18.02.2026*Mohit Kumar*

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