



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

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CWP-2953-2024

Date of Decision: **20.04.2026**

Angrej Paul

.....Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

Mr. Amit Shukla, DAG Punjab.

Mr. Akshay Rawal, Advocate for respondent No.4.

Mr. Pritesh Goel, Advocate for respondent No.5.

HARPREET SINGH BRAR, J. (Oral)

PRAYER

1. The present civil writ petition has been filed under Article 226 read with Article 227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to release the gratuity and leave encashment along with interest @ of 18% per annum. Further respondents be directed to release the amount of provident fund and other benefits along with interest @ of 18% per annum. Further pay of petitioner be refixed and his retirement benefits be revised accordingly and same be paid to him with interest @ of 18% per annum Lastly it is prayed that



no recovery be made from the petitioner if it is found that the excess payment has been made to the petitioner.

CONTENTIONS

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was appointed as a Clerk with respondent No.5 on 03.06.1982, was promoted to the post of Inspector on 22.09.2016, and thereafter superannuated from service on 31.03.2023 while serving in the office of respondent No.4. At the time of retirement, the petitioner was drawing a basic pay of Rs.76,300/-, and upon addition of 34% Dearness Allowance, his total emoluments comes out to be Rs.1,02,242/-. It is contended that the retiral benefits of the petitioner are liable to be computed on the basis of the said last drawn pay. The petitioner rendered an unblemished service of 41 years and, accordingly, his gratuity is stated to be payable on the basis of qualifying service of 41 years, amounting to Rs.24,18,417/-. It is further submitted that prior to the retirement of the petitioner, the office of respondent No.5 had addressed communications to respondent No.4 seeking refixation of the petitioner's pay; however, no action was taken. Subsequently, on 30.06.2023, the petitioner came to know that the office of the Regional Deputy Director (Local Audit), Bathinda, had raised certain objections in the pension case of the petitioner, alleging that his pay had been wrongly fixed by grant of excess increments and incorrect pay scales, and recommending recovery after revision of pension, as is discernible from Annexure P-1.



3. Learned counsel for the petitioner further submits that perusal of the record reveals that the last drawn pay of the petitioner was revised and re-fixed at Rs.69,800/- vide letter dated 30.01.2024 (Annexure R-4/1). It is further the stand of the respondents that the petitioner's pay had allegedly been incorrectly fixed since the year 1982, despite the fact that the petitioner had already retired on 31.03.2023. Learned State counsel as well as counsel for respondent No.4 have failed to furnish any satisfactory explanation or justification as to the basis or authority under which such retrospective refixation of pay has been undertaken, particularly with effect from the date of initial appointment. The impugned action is asserted to be in contravention of Rule 11.4(b)(iii) of the relevant PCS Rules, as well as the law laid down by the Hon'ble Supreme Court.

4. On the other hand, learned counsel for the respondents, while referring to Annexure R-1, submit that upon promotion as Senior Clerk on 01.01.1989, the petitioner was erroneously granted more than one annual increment. It is further contended that the benefit of 8 years Assured Career Progression (ACP) was wrongly granted to the petitioner on 01.06.1994, whereas the same was actually due on 01.01.1997. Additionally, the petitioner was extended the pay scale of Rs.5000-8100 w.e.f. 01.01.1996, though he was allegedly entitled only to the scale of Rs.4400-7000. It is further submitted that the benefits of 16 years and 24 years ACP were prematurely granted on 03.06.1998 and 03.06.2006, respectively, whereas the same were due on 01.01.2005 and 01.01.2013 in accordance with the



applicable rules. As such, the present petition lacks merit and deserves dismissal.

OBSERVATIONS AND ANALYSIS

5. I have heard the learned counsel for the parties and gone through the case file with their able assistance. It transpires that the petitioner retired from the service on 31.03.2023. For the first time the audit objection was raised and communicated to respondent No.4 on 30.01.2024 (Annexure R-4/1) and the pay of the petitioner was refixed w.e.f. 1992 and last basic pay of petitioner was fixed at Rs.69,800/-.

5.1. It transpires that the petitioner retired from the services of the respondent on 31.03.2023. It is also not in dispute that throughout the entire service tenure of the petitioner, there were no objections raised regarding the fixation of his pay or the grant of financial upgradation. The issue was raised for the first time vide an audit objection, on 30.06.2023 and as a consequence of which, the pay of the petitioner was revised and refixed, and a recovery was ordered for the same vide letter dated 30.06.2023 (Annexure P-1).

5.2. Admittedly, the petitioner's pay was re-fixed and recovery was directed, 3 months after his retirement. Indisputably, the pension of the petitioner is governed by the Punjab Municipal Corporation Employees Pension and General Provident Fund Rules, 1994, the relevant provision of which is reproduced as under:



8. General Provisions relating to grant of pension. - (1) For the purpose of grant of pension to the employees, the rules relating to pension as contained in the Punjab Civil Services Rules, Volume II, shall apply mutatis mutandis to the employees of the Corporations also and for that purpose the terms and expressions not otherwise defined in these rules, shall have the same meaning as assigned to them in the Punjab Civil Services Rules, Volume I, Part I.

5.3. As such, the pension of the petitioner would be governed by the Punjab Civil Services Rules, a bare perusal of the Rule 9.4(b)(iii) and Rule 6.19(c) of the Volume II, indicates that upon retirement, the authorities are required to check only the accuracy of the emoluments for the 24 months immediately preceding the date of retirement, and not for any earlier period. Rule 9.4(b)(iii) is reproduced as under:

“(iii) Calculation of Average emoluments.—For the purpose of calculation of average emoluments, the Head of Office shall verify from the service book, the correctness of the emoluments drawn during the last ten months of service. In order to ensure that the emoluments during the last ten months of service have been correctly shown in the service book, the Head of Office may verify the correctness of emoluments for the period of twenty-four months preceding the date of retirement of a Government employee, and not for any period prior to that date.”

(Emphasis supplied)

5.4. Moreover, a two judge Bench of the Hon’ble Supreme Court in ***Sushil Kumar Singhal v. Pramukh Sachiv Irrigation Department 2014 INSC 291***, dealt with an identical issue, where the emoluments of only last 10 months prior to the retirement were to be inquired by the pension fixation



authority. Post retirement of the appellant, it was revealed that a mistake had been committed while his fixing pay in 1986, and consequently salary of the appellant was re-fixed and recovery of excess amount was ordered. The Hon'ble Apex Court while rejecting the re-fixation and recovery observed as under,

“10. For the aforesaid reasons, we quash the impugned judgment delivered by the High Court and direct the respondents not to recover any amount of salary which had been paid to the appellant in pursuance of some mistake committed in pay fixation in 1986. The amount of pension shall also not be reduced and the appellant shall be paid pension as fixed earlier at the time of his retirement. It is pertinent to note that the Government had framed such a policy under its G.O. dated 16th January, 2007 and therefore, the respondent authorities could not have taken a different view in the matter of re-fixing pension of the appellant.

11. The submission made on behalf of the learned counsel appearing for the respondent that the appellant would be getting more amount than what he was entitled to cannot be accepted in view of the policy laid down by the Government in G.O. dated 16th January, 2007. If the Government feels that mistakes are committed very often, it would be open to the Government to change its policy but as far as the G.O. dated 16th January, 2007 is in force, the respondent-employer could not have passed any order for recovery of the excess salary paid to the appellant or for reducing pension of the appellant.”

(Emphasis supplied)

5.5 Reliance in this regard may also be placed upon the judgement rendered by a Co-ordinate Bench of this Court in *Sarabjit Kaur vs. State of*



Punjab and others CWP-881-2015 and this court in ***Sajjan Kumar Goyal vs. State of Haryana and others CWP - 32661 - 2024***.

5.6. In view of the foregoing, and considering that the petitioner retired on 31.03.2023, the scope of verification for pension purposes under Rule 9.4(b)(iii) stood confined to the emoluments drawn during the period immediately preceding retirement, extendable only up to 24 months, and not beyond. The respondents, therefore, could not have reopened the petitioner's pay fixation pertaining to the year 1994, that too after his retirement, and proceeded to re-fix his pay and order recovery. Such action clearly travels beyond the permissible scope of scrutiny under the Rules and is legally untenable, particularly in the absence of any misrepresentation or fraud on the part of the petitioner. The case of the petitioner is squarely covered by the judgment of the Hon'ble Supreme Court in ***Sushil Kumar Singhal (supra)***.

5.7. Further, in terms of the judgement rendered by the full bench of this court in ***A.S. Randhawa Supg. Engineer (Retd.) vs. State of Punjab 1998 (1) SCT 343***, wherein it was opined that disbursement of pension and other benefits payable at retirement must be done in a timely manner and delay over a period of two months qua the said disbursement would entitle the retired employee to claim interest on the amount due. The respondents are directed to release the retiral due of the petitioner computed according to emoluments drawn by him for the last 24 months, along with interest @6% to be calculated from two months after his retirement till its actual



realization. The respondent(s)/competent authority is directed to do the needful within 03 months of receipt of a certified copy of this order.

6. In view of the foregoing discussion the present writ petition is allowed and the impugned letter dated 30.06.2023 (Annexure P-1) is hereby quashed and set aside.

6.1 The respondents are directed to restore the pay of the petitioner as it stood on the date of his superannuation, i.e., 31.03.2023, and to re-compute all retiral benefits, including gratuity, leave encashment, pension, and other consequential dues, on the basis of such last drawn pay.

6.2 The respondents shall further release all retiral dues within a period of three months from the date of receipt of a certified copy of this order.

6.3 In view of the unwarranted delay and arbitrary action on the part of the respondents, the petitioner shall also be entitled to interest @ 6% per annum on the delayed payment of retiral benefits from the date they became due till the date of actual disbursement. It is further directed that no recovery shall be effected from the petitioner on account of any alleged excess payment, in the absence of any misrepresentation or fraud attributable to him.

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7. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

20.04.2026
Puneet Chawla

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No