IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3442-2022
Decided on: 23.03.2026

SATISH KUMAR RUHIL

...PETITIONER

VERSUS

GOVT. OF HARYANA AND ORS.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. S.S. Sidhu, Advocate for the petitioner.

Mr. Rahul Dev Singh, Addl. AG Haryana

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SANDEEP MOUDGIL, J

Prayer

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of mandamus directing the respondents to release the gratuity and commuted value of pension to the petitioner, who retired on 30.11.2019, along with interest @ 18% per annum with effect from 01-12-2019.

Brief Facts

2. The petitioner, a permanent resident of Haryana, joined the State Government as Works Manager on 08.04.1986 and retired on 30.11.2019 after rendering more than three decades of service. During his service tenure, he was promoted as Senior Mechanical Engineer in 2016 and had earlier also discharged duties as Joint Transport Commissioner.

3. The petitioner's pay was revised in accordance with the Haryana

Civil Services (Revised Pay) Rules, 2016, and he was also granted financial upgradation under the Assured Career Progression (ACP) Rules, 2016. Owing to his satisfactory service record, he was granted extension in service after attaining the age of 55 years. Upon his retirement on 30.11.2019, he was sanctioned provisional pension, and his provident fund as well as leave encashment were duly released.

4. However, despite retirement on 30.11.2019, the respondents failed to release the gratuity and commuted value of pension to the petitioner. A legal notice dated 24.07.2021 was served upon the respondents, but no action was taken.

5. Aggrieved by the inaction of the respondents, the petitioner has approached this Court seeking a direction for release of gratuity and commuted value of pension along with interest from the date of retirement.

Contentions

On behalf of petitioner

6. Learned counsel for the petitioner contends that the petitioner retired on 30.11.2019 after rendering more than three decades of continuous and unblemished service under the State of Haryana and, therefore, became entitled to all retiral benefits including gratuity and commuted value of pension. It is argued that the petitioner had a meritorious service record and was even granted promotion as Senior Mechanical Engineer as well as extension in service, which itself demonstrates the absence of any adverse material against him during his service tenure.

7. It is further contended that upon retirement, while provisional pension, provident fund and leave encashment have been released, the

respondents have failed to release gratuity and commuted value of pension without any lawful justification. Learned counsel submits that retiral benefits are a vested right accruing to an employee on superannuation and cannot be withheld arbitrarily or indefinitely.

8. Learned counsel argues that despite issuance of legal notice dated 24.07.2021, the respondents have not taken any steps to release the admitted dues. The continued withholding of gratuity and commutation of pension has caused serious financial hardship and mental agony to the petitioner, who is dependent upon such benefits post-retirement.

9. It is thus contended that the action of the respondents in not releasing gratuity and commuted value of pension is arbitrary, unjust and violative of the petitioner's legal rights. The petitioner is, therefore, entitled to a direction for release of the said benefits along with interest from the date they became due.

On behalf of the respondents:

10. Learned counsel for the respondents contends that the petitioner is not entitled to release of gratuity and commuted value of pension at this stage in view of the statutory provisions governing the field. It is submitted that at the time of superannuation on 30.11.2019, a show cause notice pertaining to financial loss to the State exchequer, as reflected in audit objections, was pending against the petitioner. In such circumstances, only provisional pension was rightly sanctioned in accordance with the applicable rules.

11. It is argued that Rule 12(3) read with Rule 81 of the Haryana Civil Services (Pension) Rules, 2016 expressly mandates that where departmental or judicial proceedings are pending at the time of retirement, the employee is

entitled only to provisional pension and not to gratuity or commutation of pension until conclusion of such proceedings and passing of final orders. The withholding of gratuity and commuted value of pension is thus stated to be in strict conformity with the statutory scheme and not arbitrary in any manner.

12. Learned counsel further submits that although the earlier show cause notice was withdrawn on 14.01.2022 after consideration of the petitioner's reply, and steps were initiated to process the retiral benefits, a subsequent show cause notice dated 08.02.2022 involving a substantial financial loss to the Government has been issued against the petitioner. Consequently, departmental proceedings are still pending against him.

13. It is, therefore, contended that so long as such proceedings remain pending, the petitioner cannot claim release of gratuity and commutation of pension as a matter of right. The respondents assert that the petitioner is being paid provisional pension strictly in accordance with rules, and no legal or fundamental right of the petitioner stands violated. The writ petition is thus stated to be devoid of merit and liable to be dismissed.

14. Heard.

Analysis

15. The controversy lies in a narrow compass, yet implicates a question of some doctrinal significance, ***whether the State can indefinitely withhold gratuity and commuted value of pension merely on the pendency of departmental proceedings, particularly where such proceedings either stand concluded or are re-initiated in a staggered and belated manner.*** The answer must be located not only within the framework of the Haryana Civil Services (Pension) Rules, 2016, but also in the broader constitutional

guarantees under Articles 14 and 300A of the Constitution of India.

16. At the outset, it is necessary to emphasize that pension and gratuity are no longer treated as acts of grace but as enforceable rights. The legal position, as enunciated in ***K.R. Erry v. State of Punjab, (1967) AIR Punjab and Haryana 279*** by this court and subsequently affirmed by the Supreme Court in ***Deokinandan Prasad v. State of Bihar***, ***1971(2) SCC 330***, is that pension constitutes "property" within the meaning of Article 300A of the Constitution of India and, therefore, cannot be withheld except by authority of law. The relevant extract of the same is here as under:

> *31. The question whether the pension granted to a public servant is property attracting Article 31(1) came up for consideration before the Punjab High Court in* ***Bhagwant Singh v. Union of India, AIR 1962 Punjab 503.*** *It was held that such a right constitutes "property" and any interference will be a breach of Article 31(1) of the Constitution. It was further held that the State cannot by an executive order curtail or abolish altogether the right of the public servant to receive pension. This decision was given by a learned Single Judge. This decision was taken up in Letters Patent Appeal by the Union of India. The Letters Patent Bench in its decision in* ***Union of India v. Bhagwant Singh, ILR (1965)2 Punj 1*** *approved the decision of the learned Judge. The Letters Patent Bench held that the pension granted to a public servant on his retirement is "property' within the meaning of Article 31(1) of the Constitution and he could be deprived of the same only by an authority of law and that pension does not cease to be property on the mere denial or cancellation of it. It was further held that the character of pension as "property" cannot possibly undergo such mutation at the whim of a particular person or authority.*

17. The respondents seek to justify their action under Rule 12(3) read with Rule 81 of the Haryana Civil Services (Pension) Rules, 2016. These provisions undoubtedly permit the grant of provisional pension and deferment of gratuity during pendency of departmental or judicial proceedings. However,

the application of these provisions cannot be divorced from constitutional discipline and judicial interpretation. The rule is not a *carte blanche* for arbitrary or prolonged deprivation of retiral dues.

18. In the instant case, the factual matrix reveals a critical feature: the original show cause notice dated 18.08.2017, forming the basis of withholding benefits at the time of retirement i.e. 30.11.2019, stood withdrawn on 14.01.2022 after due consideration. This effectively obliterated the substratum of the respondents' initial justification. The legal consequence of such withdrawal is that the embargo contemplated under Rule 81 of the 2016 Rules ceased to operate from that date.

19. However, what followed thereafter is even more significant. Instead of releasing the retiral benefits to the petitioner, the respondents issued a fresh show cause notice dated 08.02.2022 alleging a substantially higher loss. This sequence discloses a pattern where, upon conclusion of one proceeding, another is initiated, thereby perpetually postponing the petitioner's retiral benefits. However, such a course is legally impermissible.

20. The position that emerges is clear, though the statutory rules may enable temporary withholding, such power is not unfettered. It is required to be exercised reasonably, proportionately, and within a defined time frame. Otherwise also, the rules do not envision a retrospective withholding of benefits, when the show cause notice is issued after the retirement of the employee. The State cannot be permitted to initiate successive or repetitive proceedings so as to defeat accrued and vested rights. Any such course of action would render the right to pension illusory and expose it to arbitrary administrative discretion.

21. It is also material that the respondents themselves concede that the earlier proceedings culminated in withdrawal of the show cause notice. In the absence of a concluded proceeding resulting in a finding of misconduct or pecuniary liability, the continued withholding of gratuity and commuted pension is without legal foundation.

22. The argument of the respondents that Rule 12(3) and Rule 81 operate as a complete bar is misconceived. These provisions are enabling, not punitive. They cannot be interpreted to authorize indefinite deprivation of retiral benefits. The interpretation advanced by the respondents would run afoul of Article 14, as it would permit arbitrary and unequal treatment, and Article 300A, as it would deprive a person of property without due authority of law.

23. Applying these principles, this Court finds that:

(i) The initial basis for withholding retiral dues ceased on 14.01.2022 upon withdrawal of the show cause notice;

(ii) The subsequent issuance of a fresh show cause notice cannot retrospectively justify continued withholding from the date of retirement;

(iii) The prolonged non-release of gratuity and commuted pension, extending beyond a reasonable period, is arbitrary and violative of constitutional guarantees.

24. This Court is also guided by the equitable principle that retiral benefits constitute deferred wage, earned by long years of service. Any unjustified delay in their disbursement amounts to civil consequences, including financial hardship and mental distress. In such circumstances, award

of interest is not a matter of discretion alone but of restitution.

25. In ***"D.D. Tewari (D) through LRs v. Uttar Haryana Bijli Vitran Nigam Ltd., (2014) 8 SCC 894"***, the Supreme Court reiterated that denial of timely payment of lawful dues warrants award of interest as compensation, while categoically holding that,

> "*4. It is an undisputed fact that the appellant retired from service on attaining the age of superannuation on 31.10.2006 and the order of the learned single Judge after adverting to the relevant facts and the legal position has given a direction to the employer-respondent to pay the erroneously withheld pensionary benefits and the gratuity amount to the legal representatives of the deceased employee without awarding interest for which the appellant is legally entitled, therefore, this Court has to exercise its appellate jurisdiction as there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred to supra. We have to award interest at the rate of 9% per annum both on the amount of pension due and the gratuity amount which are to be paid by the respondent."*

26. Similarly, in ***"S.K. Dua v. State of Haryana, (2008) 3 SCC 44"***, it was held by the Apex court that even in the absence of statutory rules, an employee is entitled to claim interest on delayed payment under Articles 14 and 21 of the Constitution, while observing that,

> "*The fact remains that proceedings were finally dropped and all retiral benefits were extended to the appellant. But it also cannot be denied that those benefits were given to the appellant after four years. In the circumstances, prima facie,* ***we are of the view that*** *the grievance voiced by the appellant appears to be well-founded that he would be entitled to interest on such benefits. If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit*

> *of interest on that basis. But even in absence Statutory Rules, Administrative Instructions or Guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of 'bounty' is, in our opinion, well-founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents."*

27. Before parting, it must be observed that administrative authorities must exercise greater responsibility in matters concerning retiral benefits. The practice of delaying such dues on tenuous or shifting grounds erodes public confidence and runs contrary to the welfare character of the State.

Conclusion

28. In view of the above, the petitioner is hereby held entitled to the relief claimed for release of retiral benefits wrongfully withheld by the respondent department. The respondents are directed to release the gratuity and commuted value of pension to the petitioner within a period of eight weeks, along with interest at the rate of 9% per annum on the delayed payment from date of accrual till the date of actual disbursement.

29. Consequently, the writ petition is allowed.

30. Pending applications, if any, stand disposed of.

(SANDEEP MOUDGIL)
JUDGE

23.03.2026
Meenu
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No