IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-4656-2025
Date of Decision : 18.03.2026

Dr. Poonam Bajaj …..Petitioner

Versus

State of Punjab and others ....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Shubham Goyal, Advocate for
Mr. Piyush Setia, Advocate for the petitioner.

Mr. Charanpreet Singh, A.A.G., Punjab.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has invoked the writ jurisdiction of this Court under Articles 226 & 227 of the Constitution of India, seeking issuance of a writ of certiorari for quashing/setting aside part of reply to the legal notice (Annexure P-2), whereby respondents have deducted amount of Rs.7,52,664/- from petitioner's retiral benefits and also denied interest on delayed payment of retiral benefits i.e. Leave Encashment, GPF, Gratuity and Commuted Pay. Further, seeking issuance of a writ of mandamus, directing the respondents to release the amount which has been deducted by the respondents and to pay interest @ 18% per annum to the petitioner on delayed payment of retiral benefits from the date of accrual to actual payment.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner retired as Medical Officer (Dental) from the office of Senior Medical Officer, I/C Community Health Centre, Sitto

Gunno, Fazilka, on attaining the age of superannuation, on 31.07.2022. However, her retiral benefits such as G.P.F., gratuity and commuted pay were released to her, after a period of 04 months from the date of her retirement and amount with regard to leave encashment was withheld by the respondents without any reason despite the passing of more than 01 year and 08 months. The petitioner had submitted various representations to the respondents for releasing her retiral dues but to no avail. Thereafter, the petitioner served a legal notice dated 30.03.2024 (Annexure P-1), through her counsel, upon the respondents for immediate release of her pending retiral dues along with interest on the delayed payment of the same. In response to the said legal notice, the respondents sent a reply dated 24.06.2024 (Annexure P-2), to the petitioner stating therein that an amount of Rs.20,18,296/- has been released on account of leave encashment out of total amount of Rs.27,70,940/- and an amount of Rs.7,52,664/- has been deducted being excess payment made to the petitioner as extra increment from 01.01.2006 to 31.12.2015. In the said reply, the respondents also denied to pay interest on the delayed payment of retiral benefits. Hence, the instant petition.

3. Learned counsel for the petitioner submits that the alleged amount of Rs.7,52,664/- has been deducted from the total amount of leave encashment of the petitioner, being alleged excess payment made to her from 01.01.2006 to 31.12.2015, after a period of about two years from the date of her retirement, without considering the fact that at the time of retirement of the petitioner, the department had issued No Due Certificate to her. He further submits that the alleged recovery has been

effected without issuance of any show cause notice or granting any personal hearing in a unilateral manner, which is not only in violation of the principles of natural justice but also against the law laid down in judgment of the Hon'ble Supreme Court passed in ***State of Punjab and others Vs. Rafiq Masih (White Washer) and others*** : ***2015(1) S.C.T. 195.***

4. Learned counsel for the petitioner further submits that the petitioner retired from service, on attaining the age of superannuation, on 31.07.2022, whereas her retiral benefits were released after a considerable delay, as the payment of G.P.F. amount was made to the petitioner on 29.11.2022; payment of gratuity amount was made to her on 01.12.2022 and payment of leave encashment was made to her on 13.06.2024. He further submits that since there is a considerable delay in releasing the retiral dues of the petitioner, therefore, the petitioner is entitled for interest on the delayed payment of her retiral dues.

5. On the other hand, learned State counsel, while referring to the averments made in the reply filed on behalf of the respondents No.1, 3 & 4, submits that during processing the case of leave encashment of the petitioner, it was found that the petitioner had been paid an excess amount of Rs.7,52,644/- inadvertently, as one extra increment was given to her and the petitioner had received the excess salary due to the said extra increment from 01.01.2006 to 31.12.2015. Therefore, there is no illegality in the alleged recovery effected from the total amount of leave encashment of the petitioner. He further submits that the amounts of G.P.F. and gratuity have been released to the petitioner well in time, whereas the delay occurred in releasing the leave encashment amount of

the petitioner is entirely procedural and not intentional. Therefore, the petitioner is not entitled for any interest.

6. I have heard learned counsel for the parties and perused the relevant documents.

7. Admittedly, the petitioner retired from service, on attaining the age of superannuation, on 31.07.2022 and after a period of about two years from the date of her retirement i.e. on 13.06.2024, the impugned recovery of Rs.7,52,664/- has been effected from the total amount of leave encashment of the petitioner, on account of alleged excess payment made to her during the period from 01.01.2006 to 31.12.2015 in the form of one extra increment. The facts and circumstances of the present case suggests that it is not the case of the respondent-department that there was any fraud or misrepresentation on the part of the petitioner to enure the benefit of fetching excess payment, rather the same was paid by the respondent-department on its own accord.

8. The Hon'ble Supreme Court in ***Rafiq Masih's case (supra)*** has laid down circumstances where no recovery can be effected from an employee despite excess payment. The circumstances enumerated in the judgment are not conclusive. The circumstances where the Court has categorically held that no recovery shall be effected are reproduced as below :-

> *"12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few*

situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.*"*

9. In view of the above, this Court is of the considered view that the case of the present petitioner is squarely covered by the principles and parameters laid down in Clauses (ii), (iii) and (v) of para 12 of the judgment of Hon'ble Supreme Court passed in ***Rafiq Masih's case (Supra)***.

10. Moreover, the impugned recovery has been effected by the respondent-department in violation of the principles of natural justice as neither any show cause notice was issued to the petitioner nor she was granted an opportunity of personal hearing.

11. So far as the interest on the delayed payment of retiral benefits of the petitioner is concerned, the petitioner retired from service, on attaining the age of superannuation, on 31.07.2022, whereas payment of G.P.F. amount was made to her on 29.11.2022, after 03

months and 29 days from the date of her retirement; payment of gratuity amount was made to her on 01.12.2022, after 04 months from the date of her retirement and payment of leave encashment was made to her on 13.06.2024, after 01 year and 11 months from the date of her retirement. In view of the considerable delay in releasing the retiral benefits of the petitioner, the petitioner cannot be denied the benefit of interest on the delayed payment of the retiral benefits as per the settled law.

12. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab : 1997(3) S.C.T. 468*** has held that where there is an inordinate delay in releasing benefits and the delay is not justifiable, employee will be entitled for interest. The relevant paragraph of the said judgment is as under:-

> *"8. 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 from 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. xx xx xx xx"*

13. Apart from this, in ***J.S. Cheema Vs. State of Haryana and others : 2014(13) RCR (Civil) 355***, this Court has held that an employee will be entitled for the interest on an amount which has been retained by

the respondents without any valid justification. The relevant paragraph of the said judgment is as under: -

> *"5. xx xx xx xx 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 laying 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."*

14. In view of the above factual position and settled principles of law, the impugned recovery of Rs.7,52,664/-, deducted from the total amount of leave encashment of the petitioner, is hereby set aside and the respondent-department is directed to refund the said amount to the petitioner along with interest @ 6% per annum on the same as well as on the delayed payment of other retiral benefits w.e.f. 01.10.2022 (i.e. after two months from the date of retirement of the petitioner) till the actual date of payment, within a period of 02 months from the date of receipt of certified copy of this order.

15. The present petition is disposed of in the above terms.

(NAMIT KUMAR)
JUDGE

18.03.2026
Kothiyal

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No