**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

215 **CWP-11069-2019.**
Date of Decision: 19.03.2026.

Jatinder Kumar ....Petitioner.

VERSUS

The Commissioner, Muncipal Corporation,
Moti Bagh, District Patiala and another ....Respondents.

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CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sohrab Dhanda, Advocate for the petitioner.

Mr. Chetan Goyal, Advocate for respondent No.1.

Mr. Vikas Sonak, Assistant Advocate General, Punjab
for respondent No.2.

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<u>HARPREET SINGH BRAR, J. (Oral)</u>

The present petition has been preferred under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing of order dated 17.01.2019 (Annexure P-1), vide which the delayed pending gratuity was released but interest on the same has not been granted sighting financial constraints. The petitioner further seeks direction to the respondent-authorities to release the interest on the delayed payment of retiral benefits at the rate of 18% per annum from the due date.

2. On 08.07.2019, the following order was passed:-

> *"In the present writ petition, the challenge is to the order dated 17.01.2019 (Annexure P-1), which has been conveyed to the petitioner vide letter dated 21.02.2019, by which the claim of the petitioner for the grant of interest has been rejected. Counsel for the petitioner argues that though, the respondents in the impugned order have admitted that petitioner retired in December, 2012 and the payments of his retiral benefits were released to him in the year 2018, but as the payments could not have been made due to the financial constraints, the petitioner is not entitled for interest on the same.*
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> *Counsel for the petitioner argues that as per the settled principle of law settled by the Division Bench of this Court in* ***Ram Karan*** *Vs.* ***Managing Director, Pepsu Road Transport Corporation and another, 2005(4) S.C.T. 438****, the financial constraints is not a valid ground to withhold the pensionary benefits and therefore, rejection of the claim of the petitioner for the grant of interest is contrary to the settled principle of law.*
>
> *Notice of motion.*
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> *Keeping in view the advance copy supplied to counsel for the respondents, Mr. Chetan Goyal, Advocate, accepts notice on behalf of the respondents.*
>
> *Adjourned to 05.11.2019.*
>
> *Let the reply be filed with the Registry before the next date of hearing."*

3. In response to the same, learned counsel for respondent No.1 reiterates the stand taken in the written statement and the specific stand taken therein is reproduced hereunder:-

> *"2. That the petitioner belonged to provincialized cadre and the appointing authority of the petitioner is Department Local Government Punjab. Therefore, the retiral benefits were to be*

disbursed to the petitioner after receiving No Objection Certificate from the Department of Local Government. Punjab. The petitioner was issued charge sheets vide Government letter bearing Nos.2/11/10-4SS1/4516 dated 28.12.2010, 14/92/11-4SS1/2770 dated 20.07.2011 and 1/51/02-2SS1/2798 dated 21.07.2011 under rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 and the gratuity of the petitioner referring rule 9.14 volume 2 of Civil Services rule 1970 was with-held/stopped by the Government vide letter bearing no.2/2/12-4SS/1167 dated 29.03.2012 and the Municipal Corporation. Patiala was directed to give provisional pension to the retired employee. Thereafter, the retired employee was issued another charge-sheet bearing no.2/23/14-5S1/261309/1 dated 07.07.2014. The no objection certificate issued by the Government vide order bearing no.2/2/2012-4SS1/294-297 dated 16.05.2016. Thereafter, the Gratuity bill amounting to Rs.8,72,834/- was prepared as per the Civil Services Rule and out of the prepared bill, amount of Rs.5,23,700/- was disbursed to the petitioner vide cheque bearing no.525056 dated 23.06.2016. Thereafter. amount of Rs.1,49.134/- was given vide cheque bearing no.527876 dated 01.09.2016 and the final amount of Rs.2,00000/- was given vide cheque bearing no. 528293 dated 22.09.2016. Thereafter, difference of Gratuity under the Gratuity Act, 1972 amounting to Rs.1,27,166/- was paid to the petitioner vide cheque no.037946 dated 08.10.2018.

3. That the petitioner was given gratuity amounting to Rs.8,72,834/- as per the Civil Services Rule 1970. Thereafter, the Department of Local Government of Punjab adopted the Payment of Gratuity Act, 1972 vide notification bearing no.Acctt. 7-DCFA-DLG-2016/52 dated 19.08.2016 and the petitioner demanded the difference of gratuity under the payment gratuity Act 1972, Thereafter, the petitioner was paid the difference of gratuity amounting to Rs.127166/- vide cheque bearing no. 037946 dated 08.10.2018.

> *4. That as per Section 8 of the Payment of Gratuity Act, 1972, the petitioner can seek the due gratuity if due, as well as compound interest from the controlling authority made under this Act."*

4. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner retired in December, 2012 and payment of gratuity was released. An amount of Rs.5,23,700/- was released on 23.06.2016, an amount of Rs.1,49,134/- was given on 01.09.2016 and thereafter an amount of Rs.2,00,000/- was given on 22.09.2016. It is pleaded in the preliminary submissions taken in the written statement of respondent No.1 that an amount of Rs.8,72,834/- was paid to the petitioner in terms of the Punjab Civil Services Rules, 1970. Thereafter, the Department of Local Government of Punjab, adopted the Payment of Gratuity Act, 1972, vide Notification dated 19.08.2016 and an amount of Rs.1,27,166/- was paid on 08.10.2018. It has been further pleaded in the written statement that in terms of Section 8 of the Payment of Gratuity Act, petitioner can seek gratuity, if due as well as the interest from the Controlling Authority made under this Act.

5. Further, there is an order available on record at Page 48 of the Paper-book in vernacular. A perusal of the same reveals that the charge-sheet served upon the petitioner on 28.12.2010 has been dropped. Further, at Page 50, the order dated 02.01.2013, indicates that charge-sheet dated 20.07.2011 has been dropped and further charge-sheet dated 07.07.2014 was dropped on 01.10.2015 as is available at Page 52 of the Paper-book. The charge-sheet issued in the year 2014 was also dropped on 01.10.2015. No justification has been given in the written statement regarding payment of gratuity to the

petitioner in installments starting from the year 2016 till the year 2018. As such, there is no embargo in releasing the retiral dues of the petitioner and the petitioner is entitled to interest on account of delay in releasing his gratuity. Further, short reply by way of affidavit of Rakesh Kumar, Joint Secretary, Department of Local Government, filed on behalf of respondent No.2, dated 11.05.2022, confirms the dropping of charge-sheet as is available from Para No.3 of the said affidavit.

6. In view of the above, the present petition is disposed of with a direction to the respondents to pay interest at the rate of 6% per annum in terms of the judgment rendered by a 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. Any delay over a period of two months, qua the said disbursement would entitle the retired employee to claim interest on the amount due. Speaking through Justice N.K. Sodhi, the following was held:

> *"9. 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.* ***<u>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</u>*** *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. Again, as to what should be the rate of interest, it should, in our view, be generally 12% unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18%."(emphasis added)*

7. The interest would be calculated after two months from the date of retirement till actual realization. The payment to be made by the respondents within two months from the date of receipt of certified copy of this order.

(HARPREET SINGH BRAR)
JUDGE

19.03.2026
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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No