



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

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**CWP-15826-2021 (O&M)
Date of decision: 15.01.2026**

Satpal Singh

.....Petitioner

Versus

The State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Pawan Kumar, Sr. Advocate with
Ms. Vidushi Kumar, Advocate and
Mr. Bhuvnesh Sharma, Advocate
for the petitioner.

Mr. Satnampreet Singh Chauhan, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. The present petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, seeking a writ of mandamus, directing the respondents to release his retiral benefits including gratuity and commutation of pension along with interest @ 18%.

2. Learned Senior Counsel for the petitioner submits that the petitioner retired from service on attaining the age of superannuation on 30.11.2020 as an Establishment Officer, after rendering 37 years of service (Annexure P-1) and on the said date neither any show cause notice nor any chargesheet was pending against the petitioner, however, his retiral dues such as commutation of pension and gratuity were withheld by the respondents and he was granted only provisional pension on 31.12.2020 after one month of the retirement (Annexure P-

2). Aggrieved against the said action of the respondents, the instant petition has been preferred, however, during the pendency of the present petition, commutation amount of Rs.5,82,271/- has been released on 01.10.2025; part payment of gratuity of Rs.10 lakhs has been released on 01.10.2025 and the balance gratuity payment of Rs.9,55,527/- has been released on 01.12.2025 to the petitioner. He further submits that the chargesheet was issued to the petitioner on 21.04.2022 (Annexure R-1) which has culminated into passing of the punishment order dated 05.07.2024 (Annexure R-2) imposing 10% cut in pension for two years and in execution of the said order, a sum of Rs.2 lakhs approximately has been deducted from the retiral dues of the petitioner. He further submits that since on the date of retirement i.e. 30.11.2020, no departmental proceedings were pending against the petitioner, therefore, the action of the respondents in withholding the retiral dues of the petitioner is illegal and arbitrary. In support of his contention, he has placed reliance upon a judgment of this Court in ***CWP-26406-2015 titled as 'Subha Chand v. State of Haryana and another', decided on 06.11.2019***, wherein similar question has been answered by a Coordinate Bench of this Court.

3. *Per contra*, learned State counsel submits that although on the date of retirement, no departmental proceedings were pending against the petitioner, however, a chargesheet dated 21.04.2022 was subsequently issued to the petitioner. In pursuance thereto, vide order dated 05.07.2024, a punishment of 10% cut in pension for a period of two years, was imposed upon the petitioner. It is further submitted that the chargesheet and the punishment order have not been challenged by

the petitioner, thus, in view of the above, petitioner is not entitled for grant of interest.

4. I have heard learned counsel for the parties and perused the record.

5. The facts are not in dispute that the petitioner retired from service on attaining the age of superannuation on 30.11.2020, while serving as an Establishment Officer. He was sanctioned only provisional pension on 31.12.2020 i.e. one month after the date of his retirement (Annexure P-2) and the payment of gratuity and commutation of pension was withheld by the respondents. During the pendency of the present petition, a chargesheet dated 21.04.2022 was issued to the petitioner alleging wrongful placement of Clerks as Junior Assistants and consequent loss to the Government. The said departmental proceedings have since concluded, and vide order dated 05.07.2024, a penalty of 10% cut in pension for a period of two years has been imposed upon the petitioner. However, other retiral dues have been paid to the petitioner during the pendency of the petition.

6. The only question which arises for consideration before this Court is as to whether the petitioner is entitled for grant of interest on the delayed payment of retiral dues or not?

7. It is a well settled proposition of law that the pension and other retiral dues of an employee is a property and the same cannot be withheld by the employer without any valid and justifiable reason. On the date of retirement, there was nothing adverse against the petitioner and, therefore, he was entitled for all his retiral dues. The said view is supported by a judgment of this Court in *Subha Chand's case (supra)*

wherein it has been held as under:-

*“It is an admitted fact that on the day when the petitioner attained the age of superannuation and retired in the year 2015, there was no charge sheet pending against him and the position for releasing the pensionary benefits to an employee is to be seen on the date of retirement of the employee and not subsequently. Once on 01.03.2015, there was no impediment in the release of the pensionary benefits of the petitioner, the respondents could not have withheld his pensionary benefits. It is the settled principle of law settled by this Court in CWP No.3493 of 1986 titled as **L.R. Dhawan vs. State of Haryana and others 1996(3) S.C.T 11** wherein, it has been held that any charge sheet which has been issued after retirement, cannot be made ground for withholding the pensionary benefits of the employee. Relevant paragraph of the judgment is as under:-*

“Gratuity due to an employee is payable to him on the date of retirement. Payment of the gratuity can be deferred in a case where the employee is under cloud at the time of his retirement, namely, in a case where he is facing departmental inquiry or judicial proceedings. If no inquiry or judicial proceedings is pending on the date of retirement of the employee, the Government/employer does not have any authority to withhold the payment of gratuity. Similarly, full pension payable to an employee can be withheld during the pending of the departmental inquiry or judicial proceedings. The Government is also possessed with the power to withhold the pension or a part thereof or recover any pecuniary loss caused to the Government from the pension payable to an employee in case such Government servant is found guilty of grave misconduct or negligence in the discharge of his duties during the course of service. Deduction from the pension can be made even on the basis of an inquiry which may be initiated against the employee after his retirement but subject to the fulfilment of the conditions enumerated in proviso to Rule 2.2(b). However, proceedings initiated against an employee under proviso to Rule 2.2 (b) cannot be made a ground for withholding of death-cum-retirement gratuity or the pension payable to an employee on the date of his retirement. In the case in hand, no inquiry was pending against the petitioner on the date of his retirement. The proceedings have been initiated against him after over three years and nine months of his retirement from service. That may ultimately lead to the withholding of the pension or

part thereof or recovery therefrom in terms of Rule 2.2(b) but there does not appear to be any legal justification for withholding of death-cum-retirement gratuity payable to the petitioner on the ground that inquiry has been initiated against him under Rule 2.2(b) with the issue of notice dated 26.12.1986."

This question again came up for consideration in Amarjit Singh Vs. Punjab State Civil Supplies Corporation Limited and another, 2016(4) PLR 191, wherein, this Court after relying upon L.R. Dhawan's case (supra) held that the retiral benefits can only be withheld on the basis of a charge-sheet, which has been issued prior to the date of the retirement of an employee. The relevant part of the said judgment is as under: -

"To the extent gratuity is claimed by the petitioner, this petition must succeed. To claim such benefit, learned counsel for the petitioner relies appropriately on the case law in Narinder Dev Sharma Vs. State of Punjab & another, 1996 (1) SCT 623; L.R.Dhawan Vs. State of Haryana & others, 1996 (3) SCT 11 and Ram Narain Dua Vs. Dakshin Haryana Bijli Vitran Nigam Ltd. & others, 2007 (1) SCT 161. This is because the respondents admit that no charge-sheet was served on the petitioner prior to his retirement and therefore, gratuity could not have been withheld. Neither can gratuity be withheld by initiating inquiry under Rule 2.2 (b) of the Punjab Civil Services Rules, Volume II after employee retires and departmental proceeding were not contemplated during service. This is for the reason that gratuity is a one-time payment which falls due and payable on the date of retirement and is not a recurring right like pension. However, an enquiry based on a charge-sheet issued after retirement under Rule 2.2(b) can be conducted and concluded. The charge-sheet was issued in this case on 02.04.2013 for an incident of alleged misconduct which occurred during the period 2009-10, while the petitioner retired from service on 30.04.2011. To that extent no court directions are called for in this petition to draw the curtains on the departmental proceedings.

For the foregoing reasons, this petition is allowed while setting aside the impugned decision withholding gratuity for no rhyme or reason. Since the amount of gratuity has been withheld for the wrong reason, the petitioner would be entitled to interest on delayed payment @ 8.7% p.a. i.e. the rate payable on long term fixed deposits sitting

invested in nationalized Banks.”

*Thereafter, while deciding CWP-13449-2014 titled as '**Hans Raj Vs. Registrar, Cooperative Societies, Punjab and others**', on 24.05.2017, this Court once again held that the gratuity cannot be withheld on the basis of the charge-sheet, which has been served after the retirement of an employee. The relevant portion of the judgment is as under: -*

“Now, the further question would arise as to whether the gratuity of the petitioner could be withheld or not? The petitioner retired from service on 30.9.2012. Charge sheet was served upon him on 11.4.2014 i.e. after more than one and half years of the said retirement. The gratuity is otherwise required to be released immediately on the retirement. It goes to show that the gratuity of the petitioner was probably not released immediately on account of the impending charge sheet. Petitioner is getting provisional pension and if the department finds that the charges are proved, they are always at liberty to impose a cut in the pension. However, the gratuity of the petitioner cannot be withheld for indefinite period on the basis of the charge sheet which is issued after more than one and half years of his retirement.

Accordingly, the present writ petition is partly allowed to the extent that the gratuity of the petitioner is ordered to be released with interest @ 9% per annum starting three months from the date of retirement till the date of actual payment.”

*Also the Division Bench of this Court in '**Ram Narain Dua Vs. Dakshin Haryana Bijli Vitran Nigam Ltd. and others, 2007(1) S.C.T. 161**, has held that gratuity payable to an employee cannot be withheld on account of allegations which have emanated after the date of retirement of the employee. The relevant paragraph of judgement is as under: -*

“2. Having heard the learned Counsel for the parties, we are of the considered view that the respondents could not have withheld any amount of gratuity payable to the petitioner on account of allegation which have been emanated after the date of his retirement. Such a course is not available to the respondents. In some what similar circumstances, this Court has earlier also in the case of Hans Raj Sharma v. Uttar Haryana Bijli Vitran Nigam Limited and Ors. 2004(4) SCT 117 (P&H), Civil Writ Petition No. 152 of 2004, decided on October 28, 2004 had allowed the writ petition

by following the judgment of Hon'ble the Supreme Court in P.R. Naik v. Union of India, AIR 1972 SC 554. It has been laid down in the aforementioned judgment that issuance of charge-sheet for initiation of departmental enquiry is a sine qua non.

3. In view of the above, we allow the writ petition and quash the impugned order dated March 1, 2005 (P-15). We further direct the respondents to release the 100% pension, arrears of pension, gratuity and commutation of pension amount to the petitioner within a period of one month from the date a certified copy of this order is presented to the respondents. In case, the needful is not within one month, then the petitioner shall be entitled to interest at the rate of 6% per annum from the date the amount is payable till its actual payment.”

Therefore, in view of the law which has been cited above, the action of the respondents in withholding the pensionary benefits of the petitioner on the basis of charge sheet dated 09.03.2015, which was issued to him after his retirement was without jurisdiction.

Even otherwise, charge dated 09.03.2015 has been dropped by the respondents vide order dated 15.06.2015 (Annexure P/2) and once the respondents were not able to substantiate the charges and the charge sheet was dropped, the pendency of the said charge sheet cannot cause prejudice to the petitioner.

In the present case on the basis of charge sheet, allegations of which could not be substantiated by the respondents, the petitioner has been restrained from availing the benefits of gratuity as well as commutation of pension for approximately seven months, thus, the petitioner needs to be compensated for the same by way of grant of interest.

*A Co-ordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana 2014 (13) RCR (Civil) 355** held that where an amount is retained and used by the respondents/employer, an employee will be entitled for interest on the same. Relevant paragraph of the judgment is as under:-*

“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 lying 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.”

*In the present case the gratuity and commutation of pension has been retained by the respondents without any valid jurisdiction/justification, therefore, keeping in view the law laid down in **J.S. Cheema's case (supra)** the petitioner is entitled for interest. Impugned order dated 27.11.2015 (Annexure P/5) stands quashed.*

Keeping in view the above, the present writ petition is allowed. The petitioner is held entitled for interest @ 9% per annum on the delayed payment of gratuity and commutation of pension from the date it became due till the same was actually released to the petitioner.

Let computation of the interest, for which the petitioner is entitled as per this order be carried out within a period of two months from the date of receipt of copy of this order and the payment so calculated be released to the petitioner within a period of one month thereafter.”

8. Keeping in view the above, the present petition is allowed and the respondents are directed to grant interest @ 7% per annum from 01.01.2021 (i.e. after one month from the date of retirement) till the actual date(s) of payment(s) and the necessary calculations be made and payment be released to the petitioner within a period of two months from the date of receipt of certified copy of this order.
9. The petitioner shall be at liberty to avail his remedies against the order dated 05.07.2024, whereby 10% cut of pension for two years has been imposed, in accordance with law.
10. Pending application, if any, stands disposed of.

15.01.2026
Vinay

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No