



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

206

CWP-29464-2017Date of Decision: **12.05.2026**

Om Parkash

.....Petitioner

VERSUS

Punjab State Power Corp Ltd And Anr

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Ms. Anju Arora, Advocate,
Ms. Alisha Arora, Advocate and
Ms. Manpreet, Advocate
for the petitioner.

Ms. Lavanya Paul, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India with a prayer for issuance of an appropriate writ or order in the nature of *mandamus* directing the respondents to release the gratuity of the petitioner along with interest @18% per annum from the date it became due and further directing them to regularize the pension of the petitioner.

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2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner joined as Assistant Lineman (hereinafter referred to as “ALM”) with the erstwhile Punjab State Electricity Board on regular basis w.e.f. 26.01.1976. On 05.10.1996, a false complaint was filed with the SHO, Police Station Banur and one FIR No.82 dated 17.11.1996 under Section 7 and 13(2) of Prevention of Corruption Act was got registered against the petitioner and other co-employees. The learned Special Judge, Patiala, convicted the petitioner and others on 21.03.2005 and appeal filed by the petitioner against the judgment so passed was dismissed by this Court on 25.02.2015 (Annexure P-1). Further, the departmental action was initiated against the petitioner on the basis of conviction in the criminal case by imposing 10% cut in the pension of the petitioner for five years vide punishment order dated 21.10.2010 and the petitioner retired from service vide order dated 21.11.2008 w.e.f. 31.01.2009. The respondent has granted petitioner pension on 24.04.2015 which compelled the petitioner to file civil suit on 20.11.2012 bearing Filing No.CS-7236-2013 which was partly decreed on 04.11.2014 by the learned Civil Judge (Junior Division), Patiala, (Annexure P-6) and further during the pendency of the present petition, the gratuity of the petitioner has been released.

2.1. Learned counsel for the petitioner further refers to the order passed by this Court on 01.02.2014 and in compliance thereof, additional affidavit was filed in which the explanation of delay was given that the

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petitioner has submitted the judgment of conviction after substantial delay on 11.10.2018 to the Office Division at Khanna and not at Zirakpur and thereafter, the case of the petitioner processed and retiral benefits along with regular pension was issued within a period of six months, which is duly reflected in the pension payment order dated 25.04.2019 (Annexure R-5).

3. *Per contra*, learned counsel for the respondent-Corporation refers to the judgment and decree passed by the learned Civil Judge (Junior Division), Patiala (Annexure P-6), and submits that the leave encashment and GPF amount were paid during the pendency of the civil suit before the learned trial Court. Further, he refers to paragraph No. 13 of the judgment (Annexure P-6) and submits that, during the pendency of the civil suit, 66.67% provisional pension, along with the GPF amount and leave encashment, had already been paid to the petitioner. Further, relying upon Rule 2.2(c) of Volume II, Chapter II of the Punjab Civil Services Rules, the learned trial Court concluded that the petitioner is neither entitled to gratuity nor can he claim commutation of pension, as judicial proceedings in the criminal case against the petitioner are still pending. As such, the respondent-Corporation cannot be held liable for the delay attributable solely to the petitioner. The petitioner has also not challenged the judgment and decree passed by the learned Civil Judge (Junior Division), Patiala (Annexure P-6).



4. Having heard the submissions advanced by learned counsel for the parties and upon perusal of the record with their able assistance, it transpires that the petitioner faced trial in a case registered under the Prevention of Corruption Act, and was convicted by the learned Special Judge, Patiala, on 21.03.2005. At the time of his retirement, the petitioner was not granted full pension, and his gratuity, leave encashment, and GPF amount were also not paid. The petitioner filed a civil suit bearing Filing No. CS-7236-2013 on 20.11.2012 before the learned Civil Judge (Junior Division), Patiala, which was partly decreed on 04.11.2014. The relevant extract of the said judgment is as under:-

“.....13. Admittedly plaintiff was retired from service of defendant Department vide order Ex.P7 dated 21.11.2008. It is also an admitted fact that no pension or pensionary benefits were paid at the time of retirement of plaintiff. However during pendency of proceedings, vide order Ex.P1, 66.67% of provisional pension, GPF and leave encashment has already paid to the plaintiff and now only gratuity and commutation of pension is left to be paid.

14. This fact has not been denied by the plaintiff that at the time of his retirement criminal judicial proceedings were pending against him and he was convicted by the trial court for commission of offence U/S 7 of the Prevention of Corruption Act. The relevant rules as to know whether plaintiff is entitled to payment of gratuity and commutation of pension, despite the fact that criminal judicial proceedings are pending against him, are contained in Rule 2.2(c) and 9.14 of Punjab Civil Services Rules, Chapter II

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Volume II which are reproduced herein below for ready reference:-

15. Rule 2.2(c) Volume II Chapter II of Punjab Civil Services Rules provides as under:-

“Rule 2.2(c) .

2.2 Recoveries from pension.

(a) and (b) xx xx xx (c) (1):- Where any departmental or judicial proceedings is instituted under clause (b) of Rule 2.2, or where a departmental proceeding is continued under clause (i) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceedings, final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto the date of retirement or if he was under suspension on the date of retirement upto the date immediately proceeding to the date on which he was placed under suspension, but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and of final orders thereon.

The gratuity, if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of final orders by the competent authority.

(2) Payment of provisional pension made under sub-clause

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(1) shall be adjusted against the final retirement benefits sanctioned to such officer upon conclusion of the aforesaid proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.

9.14 Provisional pension where departmental or judicial proceedings may be pending:-(1)

(a) In respect of Government employee referred to in clause (c) of rule 2.2, the Head of Office shall authorize the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government employee or if he was under suspension on the date of retirement, up to the date of immediately preceding the date on which he was placed under suspension.

(b) The provisional pension shall be authorized by the Accountant-General, Punjab during the period commencing from the date of retirement upto and including the date on which, after the conclusion of department or judicial proceedings, final orders are passed by the competent authority.

(c) No gratuity shall be paid to the Government employee until the conclusion of the department or judicial proceedings and issue of final order thereon: Provided that where departmental proceedings have been instituted under rule 10 of Punjab Civil Services (Punishment and Appeal) Rules, 1970, for imposing any of the penalties specified in clauses (I), (ii) and (iv) of rule 5 of the said rules, the payment of gratuity shall

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authorized to be paid to the Government employee,

(2) Payment of provisional pension made under sub-rule

(1) shall be adjusted against final retirement benefits sanctioned to such Government employee upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.”

16. A bare reading of the above reproduced provisions shows that during the pendency of judicial proceedings, the employee is neither entitled to gratuity nor he can claim commutation of pension

17. Further Hon'ble Punjab and Haryana High Court in Phool Singh vs Financial Commissioner, Haryana 2004(4) SCT 491 has also categorically observed that a retiree will not be entitled to claim gratuity and commutation of pension during pendency of judicial proceedings, though he can not be deprived of his pension.

18. In view of the discussion made herein above, it is clear that gratuity and commutation of pension can be withheld by department, thus now plaintiff can not claim gratuity and commutation of pension till the judicial proceedings are concluded. Now the only question which requires determination is whether plaintiff is entitled to 100% provisional pension as alleged by plaintiff or not? This question has been settled by the Hon'ble High Court in



the case of Dr.Ishar Singh vs State of Punjab 1993 105 PLR 499. In case of Dr.Ishar Singh vs State of Punjab 1993 105 PLR 499, Hon'ble Punjab & Haryana High Court has extensively discussed the scope of rule 2.2(b) and 9.14 of Punjab Civil Services Rules and has laid down following principles which are as under:-

- 1. The government has no right to withhold or postpone pension or payment on account of commutation of pension. The State is bound to release 100% pension at the time of superannuation, may be provisional.*
- 2. The government can withhold the gratuity or other retiral benefits except pension or postpone payment of the same during pendency of an enquiry.*
- 3. Pension can not be adversely effected before the finding of guilt is returned.*
- 4. The government can initiate departmental enquiry after long lapse before retirement, rather there is no limitation for initiating the departmental enquiry from the date of incident before retirement. The delay and the explanations for the same may reasonably be taken note of keeping of view its likelihood to cause prejudice to the delinquent if the enquiry is challenged in appropriate proceedings.*
- 5. The enquiry proceedings can not be quashed solely on the ground of long pendency.*
- 6. There is no effect of superannuation on the pendency of the enquiry proceedings.*
- 7. The recovery of government dues can be made from gratuity or other retiral benefits only.*

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19. As such merely because of the fact that judicial proceedings are pending, pension of plaintiff can not be withheld. Further from the principles laid down by Hon'ble High Court as well as from rules 2.2(b) and 9.14 and Dr.Ishar Singh (Supra) in no eventuality pension of a retiree can be withheld and he is to be paid 100% provisional pension and there is no rule to grant only 66.67% of the provisional pension.

20. In the light of discussion made herein above, both these issues are partly decided in favour of plaintiff and partly in favour of the defendants.”

5. Further, criminal appeal bearing No.S-663-SB of 2005 was dismissed on 25.02.2015 (Annexure P-1). The petitioner has specifically pleaded that he has approached the Hon'ble Supreme Court and he has to undergo his entire sentence and no relief has been granted by the Hon'ble Supreme Court. The petitioner has submitted the judgment passed by this Court (Annexure P-1) only on 11.10.2018 and it remains uncontroverted that petitioner served a copy of judgment (Annexure P-1) after substantial delay on 11.10.2018 not in the office where he was last posted before his retirement rather the copy was supplied to the office of the Corporation at Khanna Division.As such, there is no lapse on part of the respondent-Corporation and petitioner is not entitled to any interest as delay is not attributable to the respondent-Corporation.

6. As far as the prayer of the petitioner regarding his entitlement to the pay from 10.10.1996 to 30.11.1996 (51 days) is



concerned, the same is barred by the vice of delay and laches as the petitioner had retired in the year 2008 and filed a civil suit six years later in the year 2014 in which no such prayer was made. In view of the Order 2 Rule 2 of the CPC, the prayer in the present petition cannot be considered.

7. It is trite law that the delay in approaching this Court under Article 226 of the Constitution of India may be condoned if sufficient cause is indicated or a reasonable explanation is provided for the same. However, the facts of the matter at hand indicate otherwise. Learned counsel petitioner has failed to specify any compelling or extenuating circumstance which prevented him from approaching this Court for such a long time. Reference in this regard may be made to the judgment rendered by a three-Judge Bench of the Hon'ble Supreme Court in *Chairman /Managing Director, U.P. Power Corporation Limited and Others vs. Ram Gopal (2021) 13 SCC 225*, wherein, the following was held:

“16. *Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fence-sitters cannot be allowed to barge into Courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In SS Balu v. State of Kerala, this Court observed thus:*



“17. It is also well settled principle of law that "delay defeats equity". It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.”

(emphasis added)

8. Further, in *Mrinmoy Maity vs. Chhanda Koley and others* **2024 AIR SC 2717**, the Hon’ble Supreme Court has categorically observed that the High Courts must factor in the delay, while exercising its discretionary powers under Article 226 of the Constitution of India. It was further opined that undue and unexplained delay may be reason enough to dismiss a petition as indolent litigants ought not to be encouraged by writ Courts. Reliance can also be placed on the judgment rendered by a Division bench of this Court in *Kartar Singh vs. Managing Director, HVPNL and others, CWP No.26962 of 2015* decided on 04.04.2018 as well as a Coordinate Bench of this Court in *Jai Narain Rohilla vs. Uttar Haryana Bijli Vitran Nigam Ltd* in **CWP-1167 of 2025** decided on 17.01.2025.

9. In view of the discussion above, the present petition stands dismissed.

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

(HARPREET SINGH BRAR)
JUDGE

12.05.2026

parul verma

Whether speaking/reasoned. :
Whether Reportable. :

Yes/No
Yes/No