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

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**CWP-21684-2022 (O&M)
Date of decision : 30.01.2026**

NEK SINGH

..... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present :- Mr. V. K. Shukla, Advocate
for the petitioner.

Ms. Neha Sonawane, DAG, Punjab.

Deepinder Singh Nalwa, J. (Oral)

1. In the present writ petition, the petitioner has challenged the charge-sheets dated 08.07.2020 (Annexure P-2) and 21.07.2020 (Annexure P-3) issued to the petitioner after his retirement. It has also been prayed for a direction to the respondents to decide the suspension period of the petitioner from 25.07.2019 to 03.10.2019 and to grant him annual increment w.e.f. 01.01.2020. Further to release the retiral benefits along with interest at the rate of 12% per annum.

2. Learned counsel appearing on behalf of the petitioner fairly submits that during the pendency of the writ petition, the charge sheets dated 08.07.2020 (Annexure P-2) and 21.07.2020 (Annexure P-3) have already

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been decided by the department and appropriate punishments have been imposed vide order dated 09.09.2023 and 12.03.2024. At this stage, he submits that he is confining his arguments only to the extent of grant of interest on delayed payment of the retiral benefits.

3. Learned counsel for the petitioner further submits that the petitioner had retired on 31.05.2020 and at the time of retirement there was no departmental proceedings or criminal proceedings pending, as such, there was no justification in withholding the retiral benefits of the petitioner.

4. Learned counsel appearing on behalf of respondent-State submits that the petitioner was not entitled for the release of retiral benefits at the time of retirement due to pendency of two charge sheets dated 08.07.2020 (Annexure P-2) and 21.07.2020 (Annexure P-3) issued to the petitioner.

5. After hearing the learned counsel for the parties at some length, the only issue involved in the present case is whether the respondent-department could have withheld the retiral benefits of the petitioner, despite of the fact that on the date of retirement, there were no departmental proceedings or criminal proceedings pending against the petitioner. Taking into consideration the facts of the present case, as no departmental proceedings were pending against the petitioner at the time of retirement, as such, the pensionary benefits of the petitioner could not have been withheld by the respondents. No rules have been brought to the notice of this Court by the respondent-State to show that even if, no departmental proceedings or criminal proceedings are initiated/pending at the time of retirement of employee, the department has the power to withhold the retiral benefits.



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Learned counsel for the respondents has also failed to bring to the notice of this Court any rule which empowers the department to withhold retiral benefits even in cases where departmental proceedings or criminal proceedings are merely contemplated.

6. A similar issue came up for consideration before the Co-ordinate Bench of this Court in **CWP No.12296 of 2018 titled as 'Sunil Kumar Khosla Vs. State of Punjab and others', decided on 04.04.2022,** wherein it was held that once no charge sheet is pending at the time of retirement, the department has no jurisdiction to withhold the retiral benefits of an employee. The relevant extract of the judgment is as under:-

“6. The question of law as to whether, under which circumstances, the pensionary benefits of the employee can be withheld, is settled. As per the settled principle of law in case any departmental proceedings or criminal proceedings pending at the time of the retirement, only in that circumstances there vest a jurisdiction with the respondents to withhold the leave encashment as well as gratuity. The provisional pension and the provident fund cannot be withheld by the respondents under any circumstances.

7. In the present case, though the petitioner retired on attaining the age of superannuation on 30.09.2017, the GPF was paid on 22.03.2018 i.e. approximately five months after the retirement, the gratuity admissible to the petitioner has been paid on 10.06.2021 and the leave encashment on 25.09.2021.

8. Learned counsel for the petitioner submits that even the charge sheets issued to the petitioner were after his retirement and were later on dropped by the respondents which clearly shows that the allegations which were being made against the petitioner in the charge sheets, which were the basis of withholding the pensionary benefits, could not be proved by the respondents.

9. Further, in the present case when there was no charge sheet pending against the petitioner at the time of retirement, the pensionary benefits could not be withheld even otherwise. The settled principle of law



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in this regard has been enumerated by the judgment of this Bench in CWP No.26406-2015 titled as Subha Chand versus State of Haryana and another, decided on 06.11.2019. The relevant paragraph of the said judgment is 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



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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 chargesheet, 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*



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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: -*



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*“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.”

7. It is well settled law that pension is not a bounty, it is right of an employee. In the present case, no departmental proceedings or criminal proceedings were pending against the petitioner at the time of his retirement. Thus, the respondents had no jurisdiction to withhold the retiral benefits of the petitioner, as such, the petitioner is held entitled to interest on the delayed payment of retiral dues.

8. Reliance has also been placed upon the judgment passed by Co-ordinate Bench of this Court in **CWP No.19759 of 2023** titled as **Parveen Kumar Vs. State of Punjab and others**, decided on 15.03.2024, wherein the Court had directed the respondents to pay interest on the delayed



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payment of retiral dues. The relevant extract from the aforesaid judgment in **Parveen Kumar's case (supra)**, is reproduced herein below:-

“9. Since either before or after the retirement of the petitioner, no departmental proceedings were pending against him, therefore, the retiral benefits of the petitioner were required to be released within a reasonable time after his premature retirement and since there is a delay of more than 01 year and 08 months in releasing the same, therefore, the petitioner cannot be denied the benefit of interest on the delayed payment of retiral dues.

10. A Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others : 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 said judgment is as under:-

“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 retiree 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.”

11. Apart from this, a Coordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355**, had 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: -

“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



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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.”

12. *In view of the above factual position and settled principles of law, the present petition is disposed of with a direction to the respondents to pay interest @ 6% per annum to the petitioner, on the delayed payment of retiral dues w.e.f. 01.09.2022 (after two months of his retirement) till the actual date of payment, within a period of 03 months from the date of receipt of certified copy of this order.”*

9. In view of the facts of the case and above referred judgments, the petitioner is held entitled for grant of interest at the rate of 6% per annum on account of delayed payment of retiral benefits, after two months from the date of retirement of the petitioner till the actual realization of the retiral benefits. The computation of interest under this order shall be computed within a period of two months from the date of receipt of certified copy of this order and further, the interest shall be released to the petitioner within a period of four weeks thereafter.

10. The present writ petition is allowed in above said terms.

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

(DEEPINDER SINGH NALWA)
JUDGE

30.01.2026

Rimpal

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No