2026:PHHC:063845

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

247 CWP-24695-2024
Date of Decision: **27.04.2026**

Gurdip Singh

.....Petitioner

VERSUS

Punjab State Water Resources Management and Development Corporation Limited through its Managing Director

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. A.S Walia, Advocates for the petitioner.

Mr.S.S Bedi, Advocate for the respondent.

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HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been instituted under Articles 226/227 of the Constitution of India, seeking issuance of an appropriate writ in the nature of *certiorari* for quashing the impugned office orders dated 17.07.2013 (Annexure P-3) and 08.08.2019 (Annexure P-4), to the extent they effect recovery of Rs.60,297/- from the leave encashment of the petitioner. The petitioner further prays for issuance of a writ in the nature of *mandamus* directing the respondents to refund the total recovered amount of Rs.80,297/-, comprising Rs.20,000/- deducted from salary and Rs.60,297/- from leave encashment, along with consequential relief of release of the

balance amount of enhanced gratuity. A further direction is sought for payment of arrears of salary pursuant to implementation of the Sixth Pay Commission w.e.f. 01.01.2016, along with interest on the delayed release of retiral benefits including gratuity and leave encashment.

2. Mr. Simardeep Singh Bedi, learned counsel, has put in appearance on behalf of the respondents and filed his memo of appearance, which is taken on record. The Registry is directed to tag the same at the appropriate place in the paper-book.

3. Learned counsel for the petitioner, *inter alia*, submits that the petitioner initially joined service as an Irrigation Booking Clerk on 13.08.1979 and superannuated from the post of Ziledar on 30.04.2018 upon attaining the age of retirement. It is contended that the benefit of higher pay scale granted to the petitioner w.e.f. 01.01.2006 was subsequently withdrawn vide order dated 09.11.2011 (Annexure P-2), followed by an order dated 17.07.2013 (Annexure P-3) directing recovery of Rs.80,297/-. It is further contended that no recovery was effected during the service tenure of the petitioner; rather, the entire recovery was enforced at the fag end of service, with Rs.20,000/- being deducted from salary and Rs.60,297/- from leave encashment.

3.1 It is vehemently argued that recovery from retiral dues is impermissible in law, particularly in view of the authoritative pronouncement of the Hon'ble Supreme Court in ***State of Punjab and others vs. Rafiq Masih (White Washer), (2015) 4 SCC 334***. Reliance is also placed upon judgments of this Court in ***CWP-22009-2022*** titled ***Som Nath vs. Punjab State Water Resources Management and Development Corporation Limited*** decided on 02.04.2025 and ***CWP-1691-2019*** titled ***Yadbinder Pal Singh vs. Punjab Water Resource Management and Development Corporation Limited*** decided on 29.08.2023.

3.2 It is further submitted that pursuant to the amendment in the Payment of Gratuity Act, 1972, notified vide S.O. 1420(E) dated 29.03.2018, the ceiling limit of gratuity stands enhanced from Rs.10,00,000/- to Rs.20,00,000/-, and since the petitioner retired after the said amendment, he is legally entitled to the enhanced gratuity.

4. *Per contra*, learned counsel for the respondent submits that the impugned order dated 17.07.2013 has been assailed after an inordinate delay, only in the year 2024, and thus the present writ petition is liable to be dismissed on the ground of delay and laches. It is further contended that the petitioner having retired in the year 2018 cannot now reopen settled issues pertaining to recovery. Additionally, it is argued that the notification dated 29.03.2018 issued by the Government of India enhancing the gratuity limit has not been adopted by the respondent department, and therefore, the petitioner is not entitled to the benefit of enhanced gratuity.

5. I have heard learned counsel for the parties and perused the record with their able assistance. It emerges that the petitioner was granted the benefit of a higher pay scale w.e.f. 01.01.2006, which was subsequently withdrawn vide order dated 09.11.2011 (Annexure P-2), followed by an

order of recovery dated 17.07.2013 (Annexure P-3) for an amount of Rs.80,297/-. The petitioner superannuated in the year 2018, and the recovery was effected from his retiral dues at that stage.

6. It is evident that the petitioner did not challenge the orders (Annexures P-2 and P-3) at the relevant time and remained indolent for a considerable period. The present challenge having been raised after an inordinate delay suffers from gross delay and laches. Accordingly, the claim insofar as it pertains to recovery of Rs.60,297/- from leave encashment is held to be barred by delay and is, thus, not maintainable.

6.1 It is well settled that the extraordinary jurisdiction of this Court under Articles 226/227 of the Constitution of India is discretionary in nature and a person who approaches the Court after an inordinate and unexplained delay is not entitled to claim relief as a matter of right. The doctrine of delay and laches squarely applies in the present case, as the petitioners remained silent for a considerable period and woke up only after several years.

6.2. 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 for the petitioner has failed to specify any compelling or extenuating circumstance which prevented her 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:*
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>> *"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.**"*
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> (emphasis added)

6.3. 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.

6.4 Insofar as the claim of the petitioner regarding **entitlement to enhanced gratuity** in terms of the amendment to the Payment of Gratuity Act, 1972 vide notification dated 29.03.2018 (Annexure P-5) is concerned, the question that arises for consideration is whether the petitioner, having retired after the said amendment, is entitled to the enhanced ceiling of gratuity i.e. Rs.20,00,000/-.

6.5 The issue is no longer *res integra*. A Coordinate Bench of this Court in ***Yadbinder Pal Singh (supra)*** has considered an identical issue and settled the legal position. The relevant extract thereof may reads as under:-

> *"12. The objection for non-payment of gratuity by referring the instructions dated 13.09.2019 annexed with written statement as Annexure R-1 and also on the plea that petitioner has not sought quashing of the same, such a plea by the respondent denying the claim of petitioner is not acceptable. The bare perusal of the said notification shows that since the Central Government in exercise of the powers conferred by Sub-Section (3) of Section 4 of the Payment of Gratuity Act, 1972 has specified the amount of gratuity payable to an employee under the said Act and same was issued prior to the date of retirement of the petitioner i.e. before 30.06.2018. The amendment in the Gratuity Act, 1972 automatically became applicable to the respondent-Corporation and it is the statutory obligation to comply with the provisions of this Act. The petitioner has already received an amount of Rs.10 lacs qua gratuity,*

therefore, his claim for the balance amount is maintainable under the Act as well as in view of the Notification dated 29.03.2018. Further, the plea of the respondent-Corporation by referring the notification issued by Finance Department is also not tenable as the provisions of the Gratuity Act, 1972 shall prevail over all other instruments or contracts so far as the gratuity is concerned and the right to receive under the Gratuity Act cannot be defeated by any instrument or contract. The Hon'ble Supreme Court in "Allahabad Bank Vs. All India Allahabad Bank Retired Employees Association", 2010 (1) SCT 531 has already dealt with the similar issue and while considering the provisions of the Payment of Gratuity Act, 1972; has held as under:-

> *"(a) There is no escape from payment of gratuity under the provisions of the Act unless the establishment is granted exemption from the operation of the provisions of the Act by the appropriate Government.*
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> *(b) Gratuity payable to an employee on the termination of his employment after rendering continuous service for not less than 5 years and on superannuation or retirement or resignation etc. being a statutory right cannot be taken away except in accordance with the provisions of the Act where under an exemption from such payment may be granted only by the appropriate Government under Section 5 of the Act which itself is a conditional power. No exemption could be granted by any Government unless it is established that the employees are in receipt of gratuity or pension benefits which are more favourable than the benefits conferred under the Act.*
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> *(c) In view of the overriding provisions contained in section 14 of the Payment of Gratuity Act, the*

provision for gratuity under the Pension Rules will have no effect. Possibly for this reason, section 5 of the Payment of Gratuity Act has conferred authority on the appropriate Government to exempt any establishment from the operation of the provisions of the Act. if in its opinion the employees of such establishment are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act. [Municipal Corporation Delhi v. Dharam Prakash Sharma & Ors., 1999(2) SCT 297]

(d) An establishment is under the statutory obligation to pay gratuity as provided for under Section 4 of the Act which is required to be read along with Section 14 of the Act which says that the provisions of the Act shall have effect notwithstanding anything inconsistent therein contained in any enactment or in any instrument or contract having effect by virtue of any enactment other than this Act.

(e) The provisions of the Act prevail over all other enactment or instrument or contract so far as the payment of gratuity is concerned. The right to receive gratuity under the provisions of the Act cannot be defeated by any instrument or contract.

(f) In Hindustan Lever and Anr. v. State of Maharashtra & Anr., (2004) 9 SCC 438 relying upon the decision in Purshottam H. Judye v. V.B. Poddar, (1966) 2 SCR 353, it was held that the word 'instrument' would include award made by the Industrial Tribunal.

(g) Section 2(d) of the Act defines Controlling Authority as an authority appointed by the appropriate Government under Section 3 of the Act. Under Section 3

the Controlling Authority is made responsible for the administration of the Act and it further provides for appointment of different authorities for different areas. Section 7 deals with for determination of the amount of gratuity. Every person who is eligible for payment of gratuity under the Act is required to send a written application to the employer in the prescribed form for payment of such gratuity. Sub-section (2) of Section 7 provides once the gratuity becomes payable, the employer shall, whether an application has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the Controlling Authority specifying the amount of gratuity so determined and arrange to pay the amount of gratuity to the person to whom the gratuity is payable. The Scheme envisaged under Section 7 of the Act, is that in case of any dispute to the amount of gratuity payable to an employee under the Act or as to the admissibility of any claim of, or in relation to, an employee payable to gratuity etc. The employer is required to deposit with the Controlling Authority the admitted amount payable as gratuity. In case of any dispute parties may make an application to the Controlling Authority for deciding the dispute who after due inquiry and after giving the parties to the dispute, a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as result of such inquiry any amount is found to be payable to the employee, the Controlling Authority shall direct the employer to pay such amount to the employee. Subsection (7) of Section 7, provides for an appeal against the order of the Controlling Authority. The Act, nowhere confers any jurisdiction upon the Controlling

> *Authority to deal with any issue under sub-section (5) of Section 4 as to whether the terms of gratuity payable under any Award or agreement or contract is more beneficial to employees than the one provided for payment of gratuity under the Act. This Court's order could not have conferred any such jurisdiction upon the Controlling Authority to decide any matter under sub-section (5) of Section 4, since the Parliament in its wisdom had chosen to confer such jurisdiction only upon the appropriate Government and that too for the purposes of considering to grant exemption from the operation of the provisions of the Act.*
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> *(emphasis supplied)"*

6.6 In view of the settled legal position, the petitioner is held entitled to the balance amount of gratuity in terms of the amended provisions of the Payment of Gratuity Act, 1972.

7. Consequently, the present writ petition is partly allowed. The respondent is directed to recalculate the gratuity payable to the petitioner in terms of the amendment dated 29.03.2018 and release the balance amount within a period of three months from the date of receipt of a certified copy of this order. The petitioner shall also be entitled to interest @ 6% per annum on the delayed payment of the differential gratuity amount from the date it became due till the date of actual disbursement.

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

(HARPREET SINGH BRAR)
JUDGE

27.04.2026
Puneet Chawla

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