

206-A

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

LPA-1197-2018 (O&M)  
Date of decision: 12.05.2026

THE DISTRICT AND SESSIONS JUDGE, JALANDHAR

...Appellant(s)

VERSUS

MOHINDER KUMAR SHARMA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI  
HON'BLE MRS. JUSTICE AMARJOT BHATTI

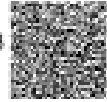
Present:- Mr. Munish Kapila, Advocate for the appellant.

Mr. Prateek Pandit, Advocate for respondent No.1.

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**JASGURPREET SINGH PURI, J. (Oral)**

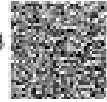
1. The present Letters Patent Appeal has been filed under Clause X of the Letters Patent Act for setting aside the judgment dated 12.03.2018 passed by the learned Single Judge in Civil Writ Petition No.1521 of 2014.
2. Respondent No.1-Mohinder Kumar Sharma, who was working as a Process Server, filed a writ petition seeking issuance of a writ in the nature of *mandamus* directing the appellant to pay interest @ 18% per annum on the delayed payment of Gratuity with effect from 31.05.2007 i.e. the date of his retirement, till 29.10.2013, when the aforesaid benefit was paid to him.
3. The learned Single Judge allowed the said writ petition vide judgment dated 12.03.2018 and directed the appellant to pay interest @ 9% per annum to respondent No.1 for the period from 01.09.2007 to 09.02.2012 on account of belated settlement of retiral benefits.



4. Learned counsel for the appellant submitted that respondent No.1, who was working as a Process Server, was facing disciplinary proceedings prior to his retirement and therefore, at the time of his retirement on 31.05.2007, his Death-cum-Retirement Gratuity (DCRG) was withheld in terms of Rule 9.14(c) of the Punjab Civil Services Rules (Volume II), which provides that no gratuity shall be paid to the Government employee until the conclusion of the departmental or judicial proceedings and issue of final order thereon. He further submitted that respondent No.1 was exonerated in the disciplinary proceedings on 16.04.2011. Thereafter, the Death-cum-Retirement Gratuity (DCRG) of respondent No.1 was finally settled on 09.02.2012 and was paid to him. Respondent No.1 thereafter filed a writ petition seeking interest from the date of his retirement till the date of payment on the ground that he had been exonerated in the disciplinary proceedings and the learned Single Judge allowed the said petition by awarding interest @ 9% per annum.

5. Mr. Kapila submitted that once the aforesaid Death-cum-Retirement Gratuity (DCRG) was withheld in exercise of powers under the Rules, no such interest would be payable to respondent No.1, even though he was later on exonerated in the disciplinary proceedings because there was no unlawful action on the part of the appellant and therefore, the interest which has been granted by the learned Single Judge while allowing the writ petition filed by respondent No.1 is liable to be set aside.

6. On the other hand, Mr. Prateek Pandit, learned counsel for respondent No.1 submitted that at the time when respondent No.1 retired on attaining the age of superannuation on 31.05.2007, although he was facing



disciplinary proceedings but since later on he has already been exonerated therein, he was not asking for any kind of damages or penal interest but had only asked for the interest which was compensatory in nature, of which the amount was already lying with the appellant and the interest which had accrued on the aforesaid amount was with the appellant and was only required to be restituted and given to respondent No.1 and in case it is not awarded to respondent No.1, then it would otherwise amount to unjust enrichment of the appellant. He further submitted that there is a distinction between the interest which has otherwise accrued on the delayed payment and any kind of penal interest or costs etc. and in the present case, it is only the former part which has been granted by the learned Single Judge and not the latter part and therefore, the present appeal is liable to be dismissed.

7. Learned counsel for respondent No.1 referred to the judgment passed by a Coordinate Bench of this Court in ***The Financial Commissioner and Principal Secretary to Govt. Haryana, Irrigation Department, Civil Secretariat, Chandigarh versus Hasan Singh Kanwar, 2010 (1) SLR 788*** to contend that even if there was any justification on account of pendency of proceedings, the employee cannot be deprived of interest which may have accrued on the amount. It was held that compensatory interest and penal interest are on different footing and direction for penal interest may be justified only if there was wrongful conduct but compensatory interest could be ordered for delay in making payment to prevent unjust enrichment and also on the principle of restitution. He also referred to the judgment passed by a Division Bench of Bombay High Court in ***Writ Petition (L) No.36169 of 2024***, titled as ***Narayan***

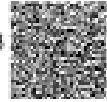


**Pundalik Pathade versus Municipal Corporation of Greater Mumbai and another**, decided on **11.03.2025**, wherein the Bombay High Court while relying upon the judgment of Hon'ble Supreme Court in **Dr. Poornima Advani and another versus Government of N.C.T. and another, 2025 SCC OnLine SC 419**

observed that pensionary benefits are welfare provisions, which are compensatory in nature. It was further observed therein that it is trite law that interest is not a penalty or punishment at all but is the normal accretion on capital and a person has a right to be compensated, when he is deprived of the use of his money. It was also held that the petitioner therein was deprived of the use of money to which he was otherwise legitimately entitled on the date of his retirement but for pendency of the departmental inquiry, the petitioner would be entitled for the payment of retiral benefits. He also submitted that in the present case as well, the learned Single Judge has only granted interest on the amount which was withheld by the appellant and not any kind of penal interest or costs and therefore, the present appeal is liable to be dismissed.

8. We have heard the learned counsels for the parties.

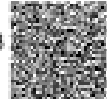
9. Respondent No.1 attained the age of superannuation and retired on 31.05.2007. At the time of retirement of respondent No.1, disciplinary proceedings were pending against him. The appellant withheld the Death-cum-Retirement Gratuity of respondent No.1 at the time of his retirement and paid the remaining pensionary benefits to him. Ultimately, respondent No.1 was exonerated in the disciplinary proceedings on 16.04.2011 and he was finally paid the Death-cum-Retirement Gratuity (DCRG) on 09.02.2012.



10. The learned Single Judge granted interest @ 9% per annum on the belated settlement of Death-cum-Retirement Gratuity (DCRG) on a petition filed by respondent No.1 seeking issuance of a writ in the nature of *mandamus* directing the appellant to pay interest on the delayed payment.

11. The issue involved in the present case is as to whether respondent No.1 is entitled to interest on the delayed payment of Death-cum-Retirement Gratuity (DCRG) or not in the facts and circumstances of the present case, whereby the same were withheld at the time of his retirement. From a perusal of the impugned judgment dated 12.03.2018, it is clear that the aforesaid rate of interest @ 9% per annum has been granted to respondent No.1 on the belated settlement of Death-cum-Retirement Gratuity (DCRG). Although there was a provision under the statutory rules for withholding the aforesaid pensionary benefits but no order was produced before this Court despite a specific query made to the learned counsel for the appellant to show that any such order has been passed for withholding the same. Be that as it may, since factually the aforesaid retiral benefits were withheld for the aforesaid period and were later paid in the year 2012, this Court would therefore also examine as to whether the nature of interest is only compensatory in nature in respect of the amount which was withheld and thereafter, respondent No.1 was exonerated and acquitted or it is penal in nature.

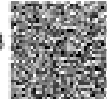
12. A Coordinate Bench of this Court in ***The Financial Commissioner and Principal Secretary to Govt. Haryana, Irrigation Department, Civil Secretariat, Chandigarh's case (Supra)*** held that even if there was justification on account of pendency of proceedings, the employee could not be deprived of



interest which may have accrued on the amount because compensatory interest and penal interest are on different footing. Paragraph No.6 of the aforesaid judgment is reproduced as under:-

*“6. We are unable to appreciate this submission. Even if there was justification on account of pendency of proceedings, the respondent could not be deprived of interest which may have accrued on the amount. Compensatory interest and penal interest are on different footing. Direction for penal interest may be justified only if there was wrongful conduct but compensatory interest could be ordered for delay in making payment, to prevent unjust enrichment and also on the principle of restitution.”*

13. In a Division Bench judgment of Bombay High Court in **Narayan Pundalik Pathade's case (Supra)**, referred to by the learned counsel for respondent No.1, it was held therein that pensionary benefits are welfare provisions, which are compensatory in nature and that it is trite law that interest is not a penalty or punishment at all but is the normal accretion on capital and a person has a right to be compensated, when he is deprived of the use of his money. It was further held that the principle of disbursement of pension and other retiral benefits should not be treated as a matter of bounty of the State but are valuable rights and property. A Division Bench of Bombay High Court also relied upon a judgment passed by Hon'ble Supreme Court in **Dr. Poornima Advani's case (Supra)**, wherein the aforesaid issue of award of interest on delayed payment was also explained that there is a misconception about interest. The interest is not a penalty or punishment at all but it is the normal accretion on capital and therefore, when a person is deprived of the use of his

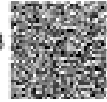


money to which he is legitimately entitled, he has a right to be compensated for the deprivation which may be called interest or compensation. Interest is paid for the deprivation of the use of money in general terms which has returned or compensation for the use or retention by a person of a sum of money belonging to other.

14. One of us (Jasgurpreet Singh Puri, J.) while sitting in Single Bench has earlier dealt with the aforesaid proposition of law in CWP-28956-2022, titled as Ram Mehar versus Uttar Haryana Bijli Vitran Nigam Ltd. and another, decided on 11.09.2024. The relevant portion of the aforesaid judgment is reproduced as under:-

*“12. A Co-ordinate Bench of this Court in J.S. Cheema Versus State of Haryana and others, 2014 (1) SCT 782 held that when delayed payment of pensionary benefits etc. is made to an employee, then it has to be accompanied with interest because the interest component is not by way of damages or by way of compensation but it is that amount which has been kept by the respondents without any justification and is being used by them and therefore, that interest component has to be given alongwith the withheld amount.”*

15. Therefore, we are of the considered view that the aforesaid interest which has been granted by the learned Single Judge was only in the nature of compensatory interest and not penal interest on the amount which was kept by the appellant at the time of retirement of respondent No.1 and the interest accrued on that capital was now required to be paid to respondent No.1. Respondent No.1 had filed the writ petition seeking grant of interest only and the same was also permissible in view of a Full Bench judgment of this Court in



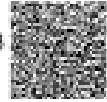
**A.S. Randhawa versus State of Punjab and others, 1997 (3) SCT 468**, wherein it was held that even a separate writ petition would lie for the purpose of seeking interest on the delayed retiral/pensionary benefits.

16. The law with regard to delayed payment of retiral benefits is also no longer *res integra*. Delayed payment of benefits on which interest accrues is also a valuable right. The law with regard to the right to receive pension and pensionary benefits which are not a bounty of the State also need to be considered. Way back in the year 1971, a Constitution Bench of Hon'ble Supreme Court in **Deokinandan Prasad versus State of Bihar, 1971 (2) SCC 330** held that pension is not a bounty of the State and is rather a valuable right.

The relevant portion of the aforesaid judgment is reproduced as under:-

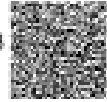
*“31. The matter again came up before a Full Bench of the Punjab and Haryana High Court in **K.R. Erry v. The State of Punjab, ILR (1967)1 Punj and Har 278 (FB)**. The High Court had to consider the nature of the right of an officer to get pension. The majority quoted with approval the principles laid down in the two earlier decisions of the same High Court, referred to above, and held that the pension is not to be treated as a bounty payable on the sweet-will and pleasure of the Government and the right to superannuation pension including its amount is a valuable right vesting in a Government servant. It was further held by the majority that even though an opportunity had already been afforded to the officer on an earlier occasion for showing cause against the imposition of penalty for lapse or misconduct on his part and he has been found guilty, nevertheless, when a cut is sought to be imposed in the quantum of pension payable to an officer on the basis of misconduct already proved against him, a further*





*opportunity to show cause in that regard must be given to the officer. This view regarding the giving of further opportunity was expressed by the learned Judges on the basis of the relevant Punjab Civil Service Rules. But the learned Chief Justice in his dissenting judgment was not prepared to agree with the majority that under such circumstances a further opportunity should be given to an officer when a reduction in the amount of pension payable is made by the State. It is not necessary for us in the case on hand, to consider the question whether before taking action by way of reducing or denying the pension on the basis of disciplinary action already taken, a further notice to show cause should be given to an officer. That question does not arise for consideration before us. Nor are we concerned with the further question regarding the procedure, if any, to be adopted by the authorities before reducing or withholding the pension for the first time after the retirement of an officer. Hence we express no opinion regarding the views expressed by the majority and the minority Judges in the above Punjab High Court decision, on this aspect. But we agree with the view of the majority when it has approved its earlier decision that pension is not a bounty payable on the sweet-will and pleasure of the Government and that, on the other hand, the right to pension is a valuable right vesting in a government servant.*

*32. This Court in State of **Madhya Pradesh v. Ranojirao Shinde and another**, 1968-3 SCR 489 had to consider the question whether a "cash grant" is "property" within the meaning of that expression in Articles 19(1)(f) and 31(1) of the Constitution. This Court held that it was property, observing "it is obvious that a right to sum of money is property".*

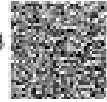


17. Thereafter, in **State of Kerala versus M. Padmanabhan Nair, AIR 1985 Supreme Court 356**, it was held by Hon'ble Supreme Court that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in their hands. The aforesaid authoritative law was thereafter reiterated by Hon'ble Supreme Court in **Dr. Uma Agrawal versus State of U.P. and another, 1999 (2) SCT 347 (SC)**.

18. Thereafter, Hon'ble Supreme Court in another authoritative judgment passed in **State of Jharkhand and others versus Jitendra Kumar Srivastava and another, 2013 (12) SCC 210** again discussed the entire law pertaining to the valuable rights pertaining to the grant of pensionary benefits.

19. In **Tukaram Kana Joshi and others through Power of Attorney Holder versus M.I.D.C. and others, 2013 (1) SCC 353**, Hon'ble Supreme Court observed that right to property is now considered to be not only a Constitutional or a Statutory Right but also a human right. Paragraph No.9 of the aforesaid judgment is reproduced as under:-

*“9. The right to property is now considered to be not only a constitutional or a statutory right but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment etc. Now however, human rights are gaining an even greater multi faceted dimension. The right to property is considered very much to be a part of such new dimension. (Vide: Lachhman Dass v. Jagat Ram, (2007) 10 SCC 448; Amarjit Singh v. State of Punjab, (2010) 10 SCC 43; (2010) 4 SCC*



*(Civ) 29, State of Madhya Pradesh v. Narmada Bachao Andolan, (2011) 7 SCC 639: AIR 2011 SC 1989, State of Haryana v. Mukesh Kumar, (2011) 10 SCC 404: (2012) 3 SCC (Civ) 769: AIR 2012 SC 559 and Delhi Airtech Services (P) Ltd. v. State of U.P., (2011) 9 SCC 354: (2011) 4 SCC (Civ) 673: AIR 2012 SC 573).”*

20. The right to receive retiral benefits, of which interest would also form a part would therefore be not only a Statutory Right but also a Constitutional Right under Article 300-A of the Constitution of India and also a valuable right in view of the aforesaid judgment passed by Hon’ble Supreme Court in **Tukaram Kana Joshi’s case (Supra).**

21. In view of the aforesaid facts and circumstances, we are of the considered view that there is no ground available with the appellant for seeking intervention in the present Letters Patent Appeal.

22. Consequently, the present Letters Patent Appeal is hereby dismissed.

23. Interim order dated 06.08.2018 stands vacated.

24. Miscellaneous applications, if any, shall also stand disposed of.

**(JASGURPREET SINGH PURI)**  
**JUDGE**

**(AMARJOT BHATTI)**  
**JUDGE**

**12.05.2026**  
**Chetan Thakur**

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No