2026:HHC:13787

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWPOA No.888 of 2019

Decided on: 25th April, 2026

Nek Ram Sharma **....Petitioner**

Versus

State of H.P. and Ors. **...Respondents**

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

Whether approved for reporting?[1]

For the petitioner:	Mr. M.L. Sharma, Advocate.
For the respondents:	Mr. Kaushal Mungta, Deputy Advocate General.

Jiya Lal Bhardwaj, Judge *(Oral)*

The petitioner, by way of present petition, has sought the relief that though the petitioner has been paid the revised amount of gratuity and leave encashment, however, the same has been paid in installments and no interest has been paid on the delayed payments.

2. The facts, which emerge from the pleadings are that the petitioner was appointed as a Clerk with the respondents-State in the year 1974 and retired from the post of Senior

[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

Assistant on 30.09.2009 on attaining the age of superannuation. As per the Office Memorandum dated 14.10.2009, issued by the State Government, revision of provisions regulating pension, gratuity, computation of pension, and family pension prescribed. As per this memorandum, the petitioner was entitled to the revised pension, gratuity, and leave encashment for the period w.e.f. 01.01.2006 to 30.09.2009. As per Clause 13 of the Memorandum, it was held that the arrears on account of pension/family pension, gratuity, and leave encashment for the said period shall be paid in due course of time, regarding which orders would be issued separately. Thereafter, the State Government had issued another Office Memorandum dated 29.03.2010, wherein it was decided that 10% of each element of pension/family pension/gratuity and leave encashment arrears, may be paid to those government servants, who had retired/died in harness on or after 01.01.2006. The 1st, 2nd and 3rd installments of interim relief had already been paid and the 5th installment of dearness relief, sanctioned vide Office

Memorandums issued earlier, was required to be adjusted against the pension/family pension arrears.

3. The grievance of the petitioner as highlighted by the learned counsel is that though the petitioner has been paid the amount of revised gratuity and leave encashment, however, the benefits ought to have been given to him soon after the implementation of the revised pay scale as per office memorandum dated 14.10.2009. He further argued that as per Rule 68 of the Central Civil Services (Pension) Rules, 1972, the respondents were liable to pay interest @ 12% per annum on the delayed payment of gratuity and also on the leave encashment.

4. Learned counsel for the respondents has produced the communication dated 06.12.2025 along with other documents, which have been taken on record.

5. The respondents filed reply to the petition and averred that the amount on account of gratuity and leave encashment was to be paid as per the Government Order dated

29.03.2010, and the respondents have implemented the said order of the Government, and the entire amount as permissible under the Rules has been paid to the petitioner and thus, nothing remains to be adjudicated.

6. I have heard the learned counsel for the parties and also perused the record carefully.

7. It is not in dispute that the petitioner has been paid the amount of revised gratuity and leave encashment after the issuance of the Office Memorandum dated 14.10.2009. The petitioner, by way of present petition, had also challenged the Office Memorandum dated 14.10.2009 and 29.03.2010, however, the validity of the said notifications was not pressed, as recorded in the order dated 11.11.2025. The petitioner has only confined his relief to the payment of interest on the amount already paid to him.

8. A perusal of the communication dated 06.12.2025 reveals that the petitioner was paid 1st installment of revised retirement gratuity amounting to Rs.16,528/- through sanction

dated 27.08.2010, 2nd and 3rd installments @ 30% i.e. 10% + 20% of revised retirement gratuity amounting to Rs.49,584/- through sanction dated 14.03.2011, 4th installment @10% of revised retirement gratuity amounting to Rs.16,528/- through sanction dated 10.10.2011 and final installment of 50% of revised retirement gratuity amounting to Rs.82,640/- through sanction dated 29.05.2012. These facts have not been disputed by the learned counsel for the petitioner. The dispute is whether the petitioner is entitled to the interest on the delayed payments of revised gratuity and leave encashment.

9. No doubt, the learned counsel for the petitioner, on instructions, had not challenged the validity of the notifications dated 14.10.2009 and 29.03.2010. However, the issue, which remains to be adjudicated, is if there is any delay in making the payment of revised gratuity and leave encashment, the petitioner can be denied the said benefit simply on the basis of the Office Memorandum issued by the respondent-State. A perusal of the office memorandum, which has been assailed,

only talks about the provisions of regulating pension/ gratuity/computation of pension/family pension. The Office Memorandum dated 29.03.2010 only devises a method to defray the payment of arrears, but it has not held that if there is delay in making the payment, the employee is not entitled to the interest on the said payment.

10. Learned Deputy Advocate General has vehemently argued that once the petitioner did not press for relief challenging the Office Memorandum dated 14.10.2009 and 29.03.2010, the petitioner cannot be held entitled to interest on the delayed payment. The said contention cannot be accepted for the simple reason that it was for the respondents to regulate the payment of the benefits of revised emoluments to be paid to the petitioner or other employees, but if there is a delay in making the payment, the petitioner cannot be denied interest atleast on the amount of revised gratuity. The petitioner cannot claim any benefit of interest prior to the issuance of the Office Memorandum dated 14.10.2009, since the State Government

had not taken the decision to grant the benefits of revised pension/gratuity and family pension. Once the Office Memorandum was issued on 14.10.2009, the employees were given to understand that they were entitled to the benefits and the same ought to have been paid to them within three months from the date of its issuance.

11. Rule 68 of the Central Civil Services (Pension) Rules, 1972, provides that if the payment of gratuity is delayed, the interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time.

12. In the present case, once the respondents had issued the Office Memorandum dated 14.10.2009, the petitioner was to be paid the amount within some reasonable time i.e. within three months i.e. 01.01.2010. So far as the amount of revised leave encashment is concerned, since there is no rule to that effect, no fault can be found with the release of the said benefit without payment of interest.

13. The same very issue with regard to delay in

defraying the amount of gratuity had come up for consideration before the Division Bench of this Court in **LPA No.189 of 2025**, titled, ***Sushma Sood vs. State of Himachal Pradesh and Others***, decided on 28.08.2025, wherein, the Court had ordered to pay interest @7.1% per annum from the date of entitlement. The relevant paras of the judgment reads as under:-

> *"4. Keeping in view the above, we are of the considered opinion that order is liable to be modified, as admittedly the amount was not paid and the employee had retired on 30.9.2013. Therefore in pursuance to the directions as such the balance amount of leave encashment and gratuity has been paid in terms of the revised scale.*
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> *5. Resultantly, falling back to Rule 68 of the CCS (Pension) Rules, wherein it is provided that the interest shall be paid at the rate applicable to General Provident Fund amount in accordance with the instructions issued from time to time, we are of the considered opinion that the interest at the rate of 7.1% per annum would be liable to paid from the date of entitlement i.e. 1.1.2014 keeping in view the fact that State has to be given some grace period to process the dues of the retiree."*

14. Keeping in view the aforementioned circumstances, the petition is allowed and the respondents are directed to pay the interest on the delayed payments of gratuity only w.e.f. 01.01.2010, till its payment within three months from today.

15. The petition is accordingly disposed of. Pending application(s), if any, shall also stand disposed of.

25st April, 2026
(ankit)

(Jiya Lal Bhardwaj)
Judge