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

249 **CWP-11684-2021**
Date of Decision: **22.04.2026**

Ajaib Singh
....Petitioner

VERSUS

State Of Punjab And Others
...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present:- Mr. Eklavya Gupta, Advocate
for the petitioner.

Mr. Amit Shukla, DAG, Punjab.

None for respondents No.4 and 5.

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<u>HARPREET SINGH BRAR, J. (Oral)</u>

1. The present petition has been filed under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature of *certiorari/mandamus* or any of them for the enforcement of legal right to grant service gratuity.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner served as a *Daftri* under respondent No. 2 and superannuated on 31.01.2016. The petitioner was granted all pensionary benefits and gratuity;

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however, an amount of Rs. 91,610/- was withheld by respondent No. 2. It is further submitted that, on the eve of retirement, there was no pending charge-sheet or disciplinary proceedings, and the petitioner retired with a clean record. As such, the withholding of the retiral dues is unsustainable in the eyes of law. The aforesaid amount was withheld as respondent No. 1 had communicated to respondent No. 2 not to release a certain amount, on the ground that the petitioner had stood surety for a loan granted by respondent No. 4 to respondent No. 5. Respondent No. 4 instituted a suit on 25.01.2017 under Order XXXVII of the Code of Civil Procedure, along with an application for *ad interim* injunction, before the competent Court at Chandigarh against respondents No. 2, 3, and 5, as well as the petitioner, seeking a decree for recovery of Rs. 99,369/- against the loan of Rs. 38,000/- along with future interest, and for restraining respondent No. 2 from releasing an amount equivalent to the aforesaid sum from the gratuity of the petitioner.

2.2 Learned counsel for the petitioner has produced order dated 14.09.2024, which is taken on record as Mark “X”. Copy thereof has been supplied to learned State counsel. Registry is directed to place the same at an appropriate place.

2.3 Referring to Mark “X”, learned counsel for the petitioner submits that the aforesaid suit was dismissed as withdrawn on the statement made by the concerned official on instructions from her employer-

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Department. As such, respondent No.4-Corporation is obligated to refund the amount withheld from the gratuity of the petitioner along with interest as the amount of gratuity was withheld without any authority of law. It is trite law that retiral benefits are not a matter of grace or bounty, but a statutory and vested right accruing to an employee upon superannuation. The issue is no longer *res integra*. The controversy stands squarely covered by the authoritative pronouncement of the Full Bench of this Court in ***A.S. Randhawa, Superintending Engineer (Retd.) vs. State of Punjab, 1998 (1) SCT 343***, wherein it has been unequivocally held that any delay in release of pensionary or retiral benefits beyond a reasonable period of two months from the date they become due would entail payment of interest to compensate the retiree for such delay.

3. The rationale underlying the grant of interest is that an employee, who has rendered long years of service, cannot be deprived of his legitimate dues without lawful justification.

4. Learned State counsel appearing for respondents No. 1 to 3 is not in a position to controvert the fact that, on 14.09.2024, the suit filed by respondent No. 4 against respondent No. 2 was dismissed as withdrawn, and that, on the eve of retirement, there was no pending charge-sheet or disciplinary proceedings against the petitioner.

5. I have heard the learned counsel for the parties and pursued the records with their able assistance. It transpires that, on the date of retirement

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of petitioner, there was no chargesheet or disciplinary proceedings pending against him and the petitioner retired naturally upon his superannuation. Further, it is undisputed that the amount so withheld constituted a part of the petitioner's gratuity.

6. Admittedly, wherever the issue of gratuity would be concerned, it has been settled by the Hon'ble Apex Court that the Payment of Gratuity Act 1972, shall have the primacy over all other legislations and would override them. Reliance in this regard may be placed upon the judgement rendered by a two Judge Bench of the Hon'ble Supreme Court in ***Y.K. Singla v. Punjab National Bank, (2013) 3 SCC 472*** speaking through Justice J.S Khehar observed that,

> ***"22.*** *In order to determine which of the two provisions (the Gratuity Act or the 1995 Regulations) would be applicable for determining the claim of the appellant, it is also essential to refer to Section 14 of the Gratuity Act, which is being extracted hereunder:*
>
> > *"**14.Act to override other enactments, etc.**—The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act."*
> >
> > *(emphasis supplied)*
>
> *A perusal of Section 14 leaves no room for any doubt that a superior status has been vested in the provisions of the Gratuity Act vis-à-vis any other enactment (including any other instrument or contract) inconsistent therewith. Therefore, insofar as the entitlement of an employee to gratuity is concerned, it is apparent that in cases where gratuity of an employee is not regulated under the provisions of the Gratuity Act, the legislature having vested superiority to the provisions of the Gratuity Act over all other provisions/enactments (including any instrument or contract having the force of law), the provisions of the Gratuity Act cannot be ignored. The term "instrument" and the phrase "instrument or contract having the force*

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of law" shall most definitely be deemed to include the 1995 Regulations, which regulate the payment of gratuity to the appellant."

7. Further the issue with regard to withholding gratuity is no longer *res integra*. A Two Judge Bench of the Hon'ble Supreme Court in ***Jyotirmay Ray v. The Field General Manager, Punjab National Bank 2023 INSC 979*** while speaking through Justice J.K Maheshwari made the following observation in this regard,

"20. The Bank harmonizing the provisions of Regulation 46 of 1979 Regulations and the Gratuity Act issued Circular No. 1563 on 16.01.1997 through its personnel division. Therein harmonizing the Regulations with the provisions of the Gratuity Act and in clauses 8 and 14 of the Circular, the instances as to ***when gratuity could be forfeited****, have been specified. Those clauses are relevant and have been reproduced as under:*

"8. FORFEITURE OF GRATUITY UNDER ACT

The gratuity payable under the payment of gratuity act, is liable to full or partial forfeiture under different circumstances. Section 4(1) of payment of gratuity act deals to payment of gratuity whereas section 4(6) of the act deals with forfeiture of gratuity. Section 4(1) reads as under:

Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five Years,

a. On his superannuation, or

b. On his retirement or resignation, or

c. On his death or disablement due to accident or disease.

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement.

Section 4(6) provides as under:

"Notwithstanding anything contained in sub-section (1)

a. The gratuity of an employee, ***whose services have been terminated f****or any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employee,* ***shall be forfeited*** *to the extent of the damage or loss so caused:*

b. The gratuity payable to an employee may be wholly or partially forfeited.

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I) If the services of such employee ***have been terminated*** *for his riotous or disorderly conduct or any other act of violence on his part, or*
II) If the services of such employee ***have been terminated*** *for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.*

14. PAYMENT UNDER OFFICERS SERVICE REGULATIONS
Rules relating to payment of gratuity of officers staff have been laid down under Regulation 46 of PNB Officers Service Regulations, 1979 which is as under:-
(I) Every officer shall be eligible for gratuity on:
(a) Retirement, (b) death (c) disablement rendering him unfit for further service as certified by a medical officer approved by the bank, or (d) resignation after completing ten years of continuous service or termination of service in any other way except by way of punishment after completion of 10 years of service.
Explanation: We have to clarify that gratuity may be paid in case of termination of service, subject to the condition that the officers has put in at least 10 years of service with the bank and provided that the termination is not by way of dismissal or removal from service as punishment.
(II) The amount of gratuity payable to an officer shall be one month's pay for every completed year of service, subject to a maximum of 15 months' pay.
Provided that where an officer has completed more than 30 years of service, he shall be eligible by way of gratuity for an additional amount at the rate of one half of month pay for each completed year of service beyond thirty years.
Pay for the purpose of gratuity in case of officer shall mean basic pay only. While calculating gratuity, that part of PQA & FPA drawn by an officer, which rank for superannuation benefit, shall also be taken into account.
Note: If the fraction of service beyond completed years of service is six months or more, gratuity will be paid pro-rata for the period. In this connection, we have to clarify that for the purpose of calculating gratuity, the number of days, beyond 6 months period is also to be taken into account."

On a combined reading of the provisions of the Gratuity Act, 1979 Regulations and the circular, it becomes clear that the ***gratuity shall become payable to every officer on retirement, death, disablement or on resignation except in a case of termination of service*** *in any other*

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> *way, by way of punishment after completion of 10 years of continuous service."*
>
> (emphasis added)

8. Consequently, since the petitioner retired on 31.01.2016 and was not terminated, under no circumstances the respondents could have withheld any part of his gratuity in line with the settled principles. Reliance in this regard may also be placed on the judgement rendered by this Court in ***Narain Singh vs. State of Punjab CWP 13625 of 2021***. The action of the respondent is, therefore, an arbitrary deprivation of the petitioner's property, violating Article 300-A of the Constitution of India.

9. As such the, in terms of the judgement rendered by the Full Bench of this Court in ***A.S Randhawa (surpa)*** , gratuity became due to the petitioner on the expiry of two months of the date of his retirement**,** further it was held therein that any delay over in release of retiral benefits over two months would entitled the retired employees to claim interest on the amount due.

10. In view of the above, the present petition is disposed of with direction to the respondents/competent authority to release amount of Rs.91,610/- to the petitioner along with interest @ 6% per annum. Such interest shall be calculated from the expiry of two months after his retirement on 31.01.2016, till the date of its actual realization. The needful be done within a period of three months from the date of receipt of a certified copy of this order.

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11. Pending miscellaneous application(s), if any, also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

22.04.2026
Parul Verma

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