IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-8607-2013 (O&M)
Date of decision: 14.05.2026

Ashok Kumar Gupta

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.L. Arora, Advocate
for the petitioner.

Mr. Vikas Sonak, AAG, Punjab.

Mr. Ashok K. Bazaz, Advocate
for respondent No.4.

Mr. Sarthak Soni, Advocate
for respondents No.5 and 6.

HARPREET SINGH BRAR J. (Oral)

CM-10876-CWP-2015

Prayer in the instant application filed under Section 151 of CPC is for placing on record the affidavit of G.K. Singh, IAS, Commissioner, Municipal Corporation, Ludhiana (respondent No.4).

Allowed as prayed for subject to all just exceptions. The Registry is directed to tag the same at appropriate place.

CM-15065-CWP-2023

Prayer in the instant application filed under Section 151 of CPC is for placing on record the affidavit of the petitioner.

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Allowed as prayed for subject to all just exceptions. The Registry is directed to tag the same at appropriate place.

CWP-8607-2013 (O&M)

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India, claiming the following reliefs:-

> *(i) to release the withheld pensionary benefits of Rs.5,42,684/- along with interest @18% per annum from the date the same became payable i.e. 01.04.2012 till the payment is made;*
>
> *(ii) to grant interest on delayed payments of Death-cum-Retirement Gratuity and pension and pensionary contribution etc. as per the details given in the writ petition and the interest be granted @ 18% per annum from the date the said benefits became payable till the date the payment.*
>
> *(iii) to order the release of benefit of Group Insurance Scheme payable by PWD Public Health (now Water Supply & Sanitation Department, Punjab) with interest @ 18% per annum.*

2. Learned counsel for the petitioner has submitted that the petitioner initially joined the Public Health Department on 03.06.1976 and thereafter, pursuant to the policy decision of the State Government constituting separate O&M cadres in Municipal Corporations, he opted for absorption in the Municipal Corporation service vide order dated 24.09.1993 (Annexure P-3). It is contended that the petitioner ultimately retired on 31.03.2012 as Additional Commissioner (O&M) (Technical) from Municipal Corporation, Ludhiana and his entire service from 03.06.1976 till retirement is liable to be counted towards qualifying

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service. Learned counsel for the petitioner has referred to Annexure P-8, and submits that the qualifying period for pension and pensionary benefits is 35 years, 09 months and 28 days and the respondents have withheld the amount of Rs.5,42,684/- on the ground that the same is payable by the Department of Water Supply & Sanitation as the petitioner had served the said department on deputation from 03.06.1976 to 27.10.1993.

3. Learned counsel for the petitioner has further referred to the letter dated 05.04.2013 (Annexure P-14) and contended that the Deputy Controller (F&A), Municipal Corporation, Ludhiana, itself demanded pension contribution and other dues from Municipal Corporation, Amritsar and other departments, thereby admitting that the petitioner could not be deprived of his retiral benefits on account of inter-departmental disputes. In support of his arguments, learned counsel for the petitioner has placed reliance upon the judgment rendered by this Court in ***Prof. Dr. R.R. Sharma (Retd.) vs. Post Graduate Institute of Medical Education and Research, 2000(1) SCT 565***, wherein it has been held that it is the duty of the last employer to effectively pursue the matter regarding contribution from the earlier employer and the retiree cannot be denied full pension for want of contribution by the previous employer. Learned counsel for the petitioner has further relied upon the affidavit dated 28.08.2023 filed through **CM-15065-CWP-2023**, wherein the petitioner has furnished the following calculations regarding delayed payment and interest:-

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Sr. No. (1)	Item (2)	Amount (3)	Paid on (4)	Delayed period (5)	Amount & interest due (6)
1.	Pension & Gratuity payable by PH Department (W/S & Sanitation) sent pension amount of Rs.1,23,832/- and Gratuity amounting of Rs.22,663/- to Municipal Corporation Ludhiana on 05.04.2013. PH Deptt. did not send the interest amount of Rs.3,45,364/- which is @ 12% p.a. as per the Govt. instructions. Instead of recovering this interest amount of Rs.3,45,364/- from PH Deptt, the M. Corporation deducted this amount from the pension arrears of the petitioner. This deducted amount of Rs.3,45,364/- is liable to be paid by the Corporation with interest from 01.04.2012 to date. Note:- The M. Corporation, Ludhiana subsequently by letter dated 05.04.2013 (Annexure P-14) wrote and demanded this amount of Rs.3,45,364/- from P.H. Deptt. Patiala and other amounts.	Rs.3,45,364/-	Not paid	01.04.12 till date (11 years 4 months)	Rs.3,45,364/- + interest @ 12% p.a. for 11 years & 4 months.
2.	Leave Salary of PH Department	Rs.1,34,687/- (Rs.41,442/- (Principal) + Rs.92,245/- (interest)	Rs.40,816/- paid on 30.07.2014	01.04.2012 to 30.07.2014 = 27 months	Rs.93,871/-. Interest on this amount from 01.04.2012 to date i.e.

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					11 years & 4 months.
3.	Pension contribution of M.C. Patiala for the period from 30.11.2011 to 12.03.2012.	Rs.42,242/-	07.07.2014	01.04.2012 to 07.07.2014 = 27 months	Interest due @ 12% p.a. for delayed period of 27 months.
4.	Pension contribution of M. Corporation Amritsar for the period from 29.06.2007 to 15.10.2007.	Rs.20,391/-	25.03.2015	01.04.2012 to 24.03.2015 = 36 months	Interest due @ 12% p.a. for delayed period of 36 months.
5.	Pension Contribution of M. Corporation Amritsar for the period from 18.07.2011 to 29.11.2011	Rs.52,506/- including interest upto 30.07.2012	Not paid	01.08.2012 to date = 11 years	Rs.52,506/- + interest @ 12% p.a. for 11 years.
6.	GIS by W/S & Sanitation Department	Rs.73,436/-	(I) Rs.14,698/- paid on 19.03.2014. (ii) Rs.58,738/- not paid	(i) 01.04.2012 to 19.03.2014 = 22 months. (ii) 01.04.2012 till date = 11 years 4 months	(i) Interest due on 14,698/- @ 12% p.a. for delayed period of 22 months. (ii) Rs.58,738/- + interest @ 12% p.a. on delayed period of 11 years & 4 months.

4. *Per contra*, learned counsel for respondents No.5 and 6 is not in a position to controvert the fact that the petitioner stood retired on 31.03.2012 and the amount of Rs.5,42,684/- as mentioned in Annexure P-8, has been withheld.

5. On the other hand, learned counsel for respondent No.4 has, however, argued that the petitioner had voluntarily opted for absorption in the O&M Cell of Municipal Corporation pursuant to the policy decision of the State Government in the year 1993 and at the time

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of his absorption, Municipal employees were governed by the Contributory Provident Fund Scheme and were not entitled to pensionary benefits. It is submitted that pension scheme in Municipal Corporations was introduced only vide Notification dated 29.07.1994 and the service rendered in the Public Health Department could be counted towards pensionary benefits only subject to deposit of leave salary contribution, pension contribution and all other retiral liabilities along with accrued interest by the previous department or the employee himself. In support of the said contention, reliance has been placed upon Annexure R-4/4, wherein it was clarified that if leave salary contribution, pension contribution and other related amounts including accrued interest are not deposited immediately on joining Municipal Corporation service, interest on the delayed period shall be chargeable. It is further submitted that the petitioner retired on 31.03.2012 and he deposited the amount of Rs.1,30,832/- on 08.05.2012 towards the payment of commutation of pension, Rs.22,263/- on 16.07.2012 towards the contribution of Gratuity and Rs.3,22,352/- on 24.05.2012 towards the provident fund in the municipal funds.

6. Learned counsel for respondent No.4 has argued that the petitioner instead of paying interest from the date of implementation of the Pension Scheme is saying that he will pay interest from 25.11.2005 i.e. the date when the terms and conditions of his services were decided and, therefore, the aforesaid amount of Rs.5,42,684/- was rightly withheld. Learned counsel for respondent No.4 has referred to the

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affidavit of Sh. G.K. Singh, IAS, Commissioner, Municipal Corporation Ludhiana filed through CM-10876-2015 and contended that the petitioner was not covered under the GIS Scheme during the relevant period and, therefore, no GIS amount was payable by respondent No.4.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

8. Admittedly, the facts are not in dispute. The petitioner joined the Public Health Department on 03.06.1976 and thereafter opted for absorption in the O&M cadre created by the State Government in Municipal Corporations pursuant to the Government policy decisions dated 22.09.1993 and 06.04.1993. The petitioner continued in service under the Municipal Corporation and ultimately retired on 31.03.2012.

9. It is also not disputed that the respondents themselves treated the service rendered by the petitioner in the Public Health Department as qualifying service for pensionary benefits. A perusal of Annexure P-8 clearly reveals that an amount of Rs.5,42,684/- was withheld in relation to the petitioner's service under the Department of Water Supply & Sanitation (erstwhile Public Health Department). Further, the communication dated 05.04.2013 (Annexure P-14) demonstrates that Municipal Corporation, Ludhiana itself sought reimbursement/contribution from the Department of Water Supply & Sanitation, Patiala in respect of the service rendered by the petitioner from 03.06.1976 to 27.10.1993.

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10. This Court further finds merit in the contention raised on behalf of the petitioner in light of the Instructions issued by the Directorate of Local Government, Punjab, Chandigarh bearing Memo No. Acctt-7-DCFA-DLG-05/3445-3480 dated 02.12.2005 regarding grant of benefit of service rendered under the Government of Punjab for pensionary benefits. The said instructions were issued to all Municipal Corporations, Municipal Councils and Improvement Trusts in the State of Punjab and specifically provide that in view of the provisions contained in sub-clause (k), (j) and (i) of Section 2 of the Punjab Municipal Corporation Employees Pension and General Provident Fund Rules, 1994, Punjab Municipal Committee Employees Pension and General Provident Fund Rules, 1994 and Punjab Improvement Trust Employees Pension and General Provident Fund Rules, 1994 respectively, the service rendered by an employee under the Government of Punjab immediately before joining the service of Municipal Corporation/Municipal Council/Improvement Trust shall be treated as "Qualifying Service" for retiral benefits.

11. In the present case, the petitioner had admittedly rendered service under the Public Health Department, Government of Punjab prior to his absorption in Municipal Corporation service and, therefore, the said service was liable to be counted towards qualifying service for pensionary benefits. Once the policy instructions dated 02.12.2005 specifically recognized such previous Government service as qualifying service, the respondents could not have withheld the pensionary benefits

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of the petitioner merely on account of non-transfer or delayed transfer of pension contribution, leave salary contribution or other liabilities by the previous departments/corporations.

12. The stand taken by the respondents that the retiral dues of the petitioner could not be released for want of transfer of contribution from the concerned departments cannot be sustained in law. The issue is no longer *res integra* and stands squarely covered by the judgment rendered by this Court in **CWP-7305-2009**, titled as ***Kulbhushan Rai vs. State of Punjab and others,*** decided on **12.08.2010**, wherein it was categorically held that *inter se* disputes between the Corporation or the State Government cannot stall the payment to which the petitioner is entitled to in law. Likewise, in ***Prof. Dr. R.R. Sharma's case (supra)***, it has been categorically held that it is the duty of the last employer to effectively pursue recovery from the previous employer and a retiree cannot be denied pensionary benefits for want of contribution from the earlier employer.

13. A perusal of the affidavit dated 28.08.2023 filed by the petitioner clearly demonstrates that substantial delays has occurred in release of pension contribution, leave salary and other retiral dues. The petitioner cannot be made to suffer on account of administrative lapses or delayed inter-departmental settlements between the Public Health Department, Municipal Corporation Ludhiana, Municipal Corporation Amritsar and Municipal Corporation Patiala. Once the respondents themselves counted the previous service towards qualifying service and

processed the pension case of the petitioner, they were under a legal obligation to release the retiral dues in a timely manner.

14. Accordingly, this Court is of the considered opinion that the action of the respondents in withholding the part of retiral dues of the petitioner for years together was arbitrary, unjustified and contrary to the Instructions dated 02.12.2005 as well as the law laid down by this Court in ***Kulbhushan Rai's case (supra)*** and ***Prof. Dr. R.R. Sharma's case (supra)***.

15. Consequently, the present writ petition is disposed of. The respondent No.1/Department of Local Government, Punjab, is directed to verify the claim made by the petitioner in the light of the observations recorded hereinabove and ensure that all the admissible retiral/pensionary dues of the petitioner, including withheld pension contribution, leave salary and other admissible benefits, if not already released, shall be released to the petitioner within a period of six weeks from the date of receipt of certified copy of this order.

16. The petitioner shall also be entitled to interest on delayed payment of retiral and pensionary benefits @ 6% per annum, which shall be calculated after expiry of two months from the date of his retirement till the date of actual disbursement of the respective amounts.

17. Respondent No.2 i.e. The Principal Secretary to Government of Punjab, Department of Water Supply and Sanitation, Punjab as well as all concerned authorities/departments from whom the pension contribution, leave salary contribution or other retiral liabilities

are recoverable, are directed to forthwith make available the requisite funds/contributions, as may be determined by the Director, Local Government, Punjab, to facilitate timely disbursement of the dues payable to the petitioner. The said exercise shall be completed within a further period of four weeks thereafter.

18. It is made clear that any deviation from the directions issued by this Court, would entitle the petitioner to move an appropriate application under Article 215 of the Constitution of India seeking initiation of contempt proceedings against the respondents.

19. Pending miscellaneous applications, if any, also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

14.05.2026
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No