

## Service Matters Relating to Salary and Gratuity

### 1. Right to Salary :

- Employee performing his duties is entitled to timely payment of his salary.
- The petitioner's salary for the period from July 1992 to August 1999 was not paid on time, and it was only released in April 2001.
- The court directed that interest on the delayed salary should be paid at a rate of 12% per annum, as applicable in the year 2001, under the purview of Article 226 of the Constitution of India.

### 2. Gratuity Payment and Delay :

- Gratuity payment, due in 1999, was only made in February 2020.
- Given this substantial delay, the respondents were directed to pay interest on the gratuity amount at 9% per annum.
- The court held that holding back the gratuity was wrongful and the petitioner was entitled to the amount at the relevant time, as per Article 226 of the Constitution of India.
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2023 PLRonline 0126, (2023-4)212 PLR 347 (SN)

PUNJAB AND HARYANA HIGH COURT

*Before : Justice Sanjeev Prakash Sharma.*

OM PARKASH GOYAL through LRs - Petitioner

*Versus*

STATE OF PUNJAB and others - Respondents

CWP-17412 of 2000 (O&M)

**Service matter - Salary - A person who is performing his duties has a right to receive his salary as and when it is due - Withholding such salary would therefore be unjustified and interest thereto is required to be paid to the petitioner - Petitioner not paid his salary for the period from July, 1992 to August, 1999 and the said salary has been released April, 2001 - Directed to release the interest on the due salary @12% p.a. as it existed in the year 2001 - Constitution of India, Article 226.[Para 7,8]**

**Service matter - Gratuity - Delay - Interest - Ggratuity payment, which was required to be paid in the year 1999, has been paid ultimately to the petitioner in February, 2020 - Interest thereto @9% p.a. will have to be therefore paid, as the**

**amount has been wrongfully kept by the respondents with them to which the petitioner was entitled at the relevant time - Constitution of India, Article 226. [Para 9]**

**Cases referred:**

**1.** 1997(3) SCT 468 (P&H FB), *A.S. Randhawa v. State of Punjab*

*Mr. Deepak Arora, Advocate, for the petitioner. Mr. Paramjit Batta, Addl. A.G., Punjab.*

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**SANJEEV PRAKASH SHARMA, J. (ORAL) - (13.12.2023)** - The petitioner retired on 31.12.1999. His pension, arrears of salary, and gratuity amount were not released, although he was working against a grant in aid post and the school was under grant in aid till 13.08.1999, as has been admitted by the respondents in their reply. The school was removed from grant in aid list only w.e.f. 13.08.1999. Thus, the petitioner was entitled to receive the pension as well as retiral benefits since he had been working against a grant in aid post for which his salary as well as gratuity amount was required to be paid by the respondents/State. However, since the same was not paid to the petitioner, he approached this Court.

**2.** This Court by passing several interim orders directed the respondents to release the amounts and affidavit was also directed to be filed on behalf of the respondents. Thereafter, an affidavit was filed by the Assistant Director stating that they have released the amount of Rs.4,37,594/- vide cheque dated 05.04.2001 relating to arrears of salary for the period from 01.07.1992 to 31.08.1999. It was also stated that the payment of gratuity bill dated 27.11.2019 of a sum of Rs.1,55,105/- has been submitted to the State Treasury on 27.11.2019 for further online payment. It was also stated that the same shall be credited to the petitioner's bank account shortly. The claim relating to pension and other benefits was however not addressed to in the said affidavit and another additional affidavit was filed on directions of this Court, and therein the respondents stated as under:

*"3. That in this regard it is respectfully submitted that the petitioner is a retiree from privately managed Govt. Aided school namely National High school Malerkotla. It is further respectfully submitted that all the due and admissible payment for which the petitioner has been found to be entitled have already been released and paid to the petitioner the detail of which is being reproduced herein below:-*

<i>Sr. Description</i>	<i>Amount in Rupees</i>	<i>Date of Payments</i>
1 D.C.R.G.	1,55,105/-	04-02-2020
2 Salary Arrear	2,56,304/-	12-03-2020
3 Revised Gratuity	5,278/-	27-03-2020
4 Arrears of Pension	i. 3,97,558/ ii.11,000/- iii.13,792/- iv.16,01,186/-	i.27-05-2020 ii.27-05-2020 iii.18-07-2020 iv.18-07-2020

3. From the aforesaid, it is apparent that the petitioner's retiral benefits and arrears of salary have been released after a long delay. Learned counsel for the petitioner submits that while the payments have been made, petitioner is also entitled to receive interest on the amount paid to him after much delay.

4. Learned counsel appearing for the State has opposed payment of interest and submits that it is the petitioner who submitted his pension papers after much delay that the pension arrears could be calculated and released.

5. I have considered the said aspects.

6. The Full Bench of this Court in the case of **A.S. Randhawa vs. State of Punjab, reported in 1997(3) SCT 468** has held that interest on delayed payment can be granted by the Court and even independent writ petition would lie for the purpose.

7. The petitioner was admittedly not paid his salary for the period from July, 1992 to August, 1999 i.e. upto the period when the school was under the grant in aid scheme, and the said salary has been released only vide cheque dated 05.04.2001. A person who is performing his duties has a right to receive his salary as and when it is due. Withholding such salary would therefore be unjustified and interest thereto is required to be paid to the petitioner.

8. Accordingly, the submission of learned counsel for the respondents/State is rejected and therefore the respondents are directed to release the interest on the due salary @12% p.a. as it existed in the year 2001.

9. With regard to the payment of gratuity, this Court notices that the gratuity payment, which was required to be paid in the year 1999, has been paid ultimately to the petitioner in February, 2020. Interest thereto @9% p.a. will have to be therefore paid, as the amount has been wrongfully kept by the respondents with them to which the petitioner was entitled at the relevant time.

10. As regards the arrears of salary pay and revised gratuity paid in March, 2020, the order of interest as directed under the relevant heads hereinabove shall also be paid accordingly from the date they were due.

11. So far as arrears of pension are concerned, this Court finds that the petitioner has submitted his pension papers on 14.11.2019, and the same has been released in May and July, 2020. Therefore, there is no apparent delay in releasing the arrears of pension on the part of the respondents and no interest would therefore accrue on the said amount.

12. In view of above, this writ petition is **allowed**.

13. Before closing the case, this Court notices that there are several cases pending before the Court where for unnecessary reasons, pension and retiral benefits are not being released, and it is only with persuasion of this Court that the respondents/State release the amount, even though there may not be any hindrance like departmental enquiry or criminal

case pending against the concerned persons. Such approach is deprecated. Costs of Rs.50,000/- is imposed on the respondents which they may recover from the erring official. The same shall also be paid to the petitioner.

- 14.** Entire interest and costs shall be paid to the petitioner within three months from today.
- 15.** All pending applications also stand disposed of accordingly.