

CWP-20943-2023& connected matters

2025 PHHC 118013



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

252(15 cases)

CWP-20943-2023

Date of Decision: **August 21, 2025**

- | | | | |
|----|----------------------------|---------------|------------------|
| 1. | Gurdas Singh | VERSUS |Petitioner |
| | State of Punjab and others | |Respondents |
| | | | CWP-22785-2022 |
| 2. | Bhajan Singh | VERSUS |Petitioner |
| | State of Punjab and others | |Respondents |
| | | | CWP-22849-2022 |
| 3. | Darshan Kumar | VERSUS |Petitioner |
| | State of Punjab and others | |Respondents |
| | | | CWP-22978-2022 |
| 4. | Balvir Singh | VERSUS |Petitioner |
| | State of Punjab and others | |Respondents |
| | | | CWP-22983-2022 |
| 5. | Harjinder Singh | VERSUS |Petitioner |
| | State of Punjab and others | |Respondents |

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CWP-24464-2022

6. Harnail Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CWP-24473-2022

7. Ranjit Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CWP-24475-2022

8. Inderpal Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CWP-24503-2022

9. Randhir Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CWP-20938-2023

10. Balwinder Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

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CWP-20940-2023

11. Ranjit Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CWP-12923-2023

12. Gurjant Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CWP-29649-2022

13. Ajaib Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CWP-29769-2022

14. Kulwant Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CWP-29893-2022

15. Nirmal Singh

.....Petitioner

VERSUS

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State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Vikas Singh, Advocate for the petitioner(s).

Mr. Vikas Arora, DAG Punjab-State.

HARPREET SINGH BRAR, J. (Oral)

1. This order of mine shall dispose of all the above-mentioned writ petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CWP-20943-2023.

2. The present writ petition has been filed under Article 226/227 of the Constitution of India with a prayer for issuance of an appropriate writ, order or directions especially in the nature of mandamus/certiorari for directing the respondents to pay the gratuity and leave encashment to the petitioner(s) and also pay 12% interest on the delayed payment of gratuity and leave encashment.

3. Learned counsel for the petitioner(s) submits that the petitioners in all the writ petitions are seeking their retiral benefits i.e. gratuity and leave encashment along with interest. Learned counsel for the petitioner further placed reliance on judgment passed by full Bench in *A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468* on the ground of delay in disbursing the retiral benefits.

4. In the reply filed by respondents No.4 and 5 objection is raised with regard to the maintainability of the present petition and further that the Cooperative Society is running into losses and there is paucity of funds, as

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such, respondent No.5 is not in a position to disburse the retiral dues of the petitioner(s) and prayed for dismissal of the present writ petitions.

5. I have heard the contentions raised by learned counsel for the parties.

6. It transpires that the right of an employee for claiming gratuity is covered under the Payment of Gratuity Act, 1972. Further the service rules of the respondent No.5 provides that the employees of the cooperative society are entitled to claim gratuity in terms of Rule 19(A), Punjab State Cooperative Agricultural Service Society Service Rules, 1997. Further, in terms of the judgment of full Bench of this Court in ***Jasbir Singh vs. Commissioner(Appeals), Jalandhar Division and others, 2011(4) RCR (Civil) 1*** and in ***CWP No.27527 of 2017Krishan Kant Versus Punjab State Cooperative Agricultural Development Bank Limited and others***, wherein it has been held that :-

“37. There are three categories of Service Rules which can be framed to regulate the conditions of service of the employees of the Society. In first category, a registered Society under the Societies Act can frame its own Service Rules to regulate the service conditions of its employees. The Rules may be binding between the Society and its employees. The second category of the Rules is those rules which are formulated under Section 85(2) (xxxviii), which empower the Government to frame Service Rules for any Co-operative Society or for class of societies with regard to qualifications for employees of a Society or class of society and the conditions of service subject to which persons may be employed by Societies. Such Rules so framed have the force of Statute and are deemed to be



incorporated as a part of the Statute, whereas this principle does not apply to the first category of Rules framed by the Society because those Rules merely govern the internal management, business or administration of a society. They are of the nature of the Articles of Association of a Company incorporated under the Companies Act. They may be binding between the persons affected by them, but they do not have the force of a statute. But the second category of Rules is the Statutory Rules and they have the force of the statute. Similarly, there is third category of Rules known as Common Cadre Rules. These rules could have been framed under Section 84-A of the Punjab Act which provide that an apex society may suo motu and when required to do so by the Registrar shall constitute a common cadre of all, or specified class of employee in the service of that society or in the service of the central societies which are members of the apex society or in the service of the primary societies which are members of the apex society. Sub-section (2) further provides that when a common cadre of employee is constituted under sub-section (1), the Registrar shall notwithstanding anything contained in any law for the time being in force or any agreement, settlement or award determine the pay scales and allowances admissible to such employees and Apex Society shall make rules for the regulation of recruitment and conditions of service of such employees with the prior approval of the Registrar. Therefore, the Common Cadre Rules framed under sub-section (2) by the Registrar are also having the statutory colour and stand on the same footing as that of the Statutory Rules.”

7. The Full Bench of this Court has already held that the Service Rules are statutory and binding, in nature and, thus, the writ of mandamus to enforce the same would be maintainable in view of settled law.

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8. In view of the judgment mentioned herein-above, writ jurisdiction can be invoked in case of violation of Rules. In the present case the gratuity is being denied on the ground that the respondent No.5-Society is running into losses and however, the salary of the petitioner(s) wrongly fixed, however, no particulars have been placed on record for the same. The issue with regard to society running into losses to deny the retiral dues has been dealt with by this Court in CWP-26520-2014 and connected cases in ***Kulbir Singh Versus Pepsu Road Transport Corporation and another.*** This Court has specifically held that the employees cannot be penalized on account of any mismanagement or losses suffered by the respondents.

9. An employee has a right to claim gratuity under the Payment of Gratuity Act, 1972. If an employee is entitled for gratuity even under the service rules, then it is option of an employee to choose either for the payment under the Payment of Gratuity Act, 1972 or from the service rules, which is beneficial to them.

10. In view of the fact that the controversy stands settled, the denial of retiral benefits to a delay that is attributable solely to the administrative action of the employer. A Full Bench of this Court in ***A.S. Randhawa Supg. Engineer (Retd.) vs. State of Punjab 1998 (1) SCT 343*** opined that disbursement of pension and other benefits payable at retirement must be done in a timely manner. Any delay over a period of two months, qua the said disbursement would entitle the retired employee to claim interest on the amount due. Speaking through Justice N.K. Sodhi, the following was held:

“9. Since a Government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the



*Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in *M. Padmanabhan Nair's case (supra)*. If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement. Again, as to what should be the rate of interest, it should, in our view, be generally 12% unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18%.”(emphasis added)*

Reliance in this regard may also be placed on the judgments rendered by the Hon'ble Supreme Court in *S.K. Dua vs. State of Haryana (2008) 3 SCC 44* and *State of Kerala vs. M. Padmanabhan Nair (1985) 1 SCC 429*.

11. In view of the above, all the civil writ petitions are disposed of with a direction to respondents/concerned authority to disburse the arrears of salary, gratuity and leave encashment. The said amount should be calculated within a period of three months and after calculation, the same should be paid within next one month. Respondents/concerned authority is further directed to pay interest on the delayed payment towards retiral benefits i.e. gratuity, salary and leave encashment @ 6 % interest per annum, from the date of filing of present petition, in terms of the judgments *A.S. Randhawa and S.K. Dua* (supra).

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

13. Photocopy of this order be placed on the file of connected

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cases.

(HARPREET SINGH BRAR)
JUDGE

August 21, 2025

P.C

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No