

AFR



2026:AHC-LKO:34728

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT – A No. - 2468 of 2026

Mr. Saleem Anwar Khan and 2 OthersPetitioners(s)

Versus

State of U.P. Thru. Prin. Secy. (Medical Health)Respondents(s)
Lko, And 3 Others

Counsel for Petitioners(s) : Sheikh Wali Uz Zaman
Counsel for Respondent(s) : C.S.C.

**Reserved on : 06.05.2026
Delivered on : 14.05.2026**

Court No. - 18

HON'BLE KARUNESH SINGH PAWAR, J.

1. Heard Sri Sheikh Wali Uz Zaman, learned counsel for the petitioners, and Sri Amarnath Singh, learned Standing Counsel appearing for the State-respondents.

2. By means of the present writ petition, the petitioners have prayed for issuance of a writ in the nature of **Certiorari** quashing the impugned order dated 01.01.2026, annexed as Annexure No.1 to the writ petition, whereby the claim of the petitioners for payment of interest on delayed payment of gratuity has been rejected. A further prayer has been made for issuance of a writ in the nature of **Mandamus** commanding the respondents to sanction and pay interest on the delayed payment of gratuity with effect from 31.07.2005 till 30.07.2024, at the rate of 18% per annum, within a stipulated period as may be fixed by this Court.

3. The brief facts of the case, as borne out from the pleadings on record, are that the petitioners are the legal heirs and children of Late Dr. Anwarullah Khan, who was appointed as a Medical Officer in the Provincial Medical Services (hereinafter referred to as "P.M.S.") on 22.06.1970. After rendering more than 35 years of unblemished service, Late Dr. Anwarullah Khan attained the age of superannuation and retired from service on 31.07.2005.

4. Since the retiral dues, particularly gratuity, were not released despite retirement, Late Dr. Anwarullah Khan instituted Writ Petition No.1061 of 2014, *Dr. Anwarullah Khan Vs. State of U.P. and Others*, which came to be disposed of vide judgment and order dated 17.07.2017. By the said order, this Court directed the respondents that in case there existed no legal or other impediment, the gratuity amount shall be paid within two months from the date of production of the certified copy of the order; otherwise, a reasoned order was required to be passed indicating specific reasons for withholding gratuity.

5. The aforesaid order was not complied with by the respondents. In the meantime, Late Dr. Anwarullah Khan died on 03.12.2014 and thereafter his wife also died on 11.06.2022. Consequently, the petitioners instituted Contempt Petition (Civil) No.2901 of 2018 seeking compliance of the order dated 17.07.2017.

6. During pendency of the contempt proceedings, a compliance affidavit was filed on behalf of the respondents stating therein that gratuity had been withheld on account of alleged outstanding house rent dues amounting to Rs.18,50,975/-. The Contempt Court, however, vide order dated 29.05.2024 rejected the compliance affidavit and directed filing of a fresh affidavit.

7. Subsequently, while considering the matter on 16.07.2024, the Contempt Court recorded an observation that admittedly no proceedings had ever been initiated against the deceased employee during his lifetime regarding alleged unauthorized occupation or recovery of house rent. Thereafter, in compliance of the order passed by the Writ Court, gratuity

amounting to Rs.3,50,000/- was sanctioned vide order dated 24.07.2024 passed by the Chief Medical Officer, Rampur and the said amount was credited into the accounts of the petitioners on 30.07.2024. Consequently, the contempt petition came to be dismissed on 31.07.2024 after recording compliance.

8. Considering paragraph no. 31 and 32 of the judgement passed in ***S. D. Bandi Vs. Divisional Traffic Officer, KSRTC & Ors. [AIR 2013 SC 2507]***, the petitioners were paid gratuity of the deceased employee on 30.07.2024.

9. Learned counsel for the petitioners submits that the gratuity amount, which became payable immediately upon retirement on 31.07.2005, was ultimately paid only on 30.07.2024 after an inordinate delay of almost 19 years. It has been argued that once the plea regarding alleged outstanding house rent had already been rejected during contempt proceedings and attained finality, the respondents could not have reopened the same issue while rejecting the petitioners' representation for grant of interest by means of the impugned order dated 01.01.2026.

10. In support of his submissions, learned counsel for the petitioners has placed reliance upon the judgment of the Hon'ble Supreme Court in ***Neelima Srivastava Vs. State of Uttar Pradesh and Others [AIR 2021 SC 3884]*** emphasis on Para 32 to 36 and ***Securities and Exchange Board of India Vs. Ram Kishori Gupta and Others [MANU/SC/0461/2025]*** emphasis on Para 28 to 31, wherein it has been held that once an issue has attained finality, the same cannot be permitted to be reopened as it would amount to abuse of process of Court and adversely affect administration of justice.

11. Further reliance has been placed upon the judgment rendered by the Division Bench of this Court in ***Indrajeet Singh Vs. State of U.P.*** passed in ***Writ Petition No. 1133(S/B) of 2001, Neutral Citation-2008:AHC-LKO:3718-DB***, wherein interest at the rate of 12% per annum was awarded on delayed payment of gratuity.

12. Per contra, learned Standing Counsel appearing for the State has opposed the writ petition and attempted to justify the delay on the ground that an amount of Rs.18,50,975/- towards house rent was recoverable from the deceased employee. However, the said contention does not impress this Court for the reason that the very same issue had already been raised before the Contempt Court and stood rejected vide order dated 29.05.2024. Admittedly, no proceedings under Section 11 of the Uttar Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1972 were ever initiated against the deceased employee during his lifetime.

13. Learned Standing Counsel has also referred to a Government Order dated 28.07.1989; however, the same has neither been brought on record nor substantiated before this Court.

14. Rebutting the submissions advanced on behalf of the State, learned counsel for the petitioners has submitted that the respondents are attempting to reagitate an issue which has already attained finality. It has further been submitted that once gratuity itself has been released in compliance of the orders passed by this Court, the respondents cannot deny statutory interest on delayed payment thereof.

15. Learned counsel for the petitioners also submits that new plea of the Government Order dated 28.07.1989 is nothing, but an attempt to mislead the Court and it is impermissible, in view of the judgement passed by the Hon'ble Supreme Court in the case of ***Commissioner of Customs, Mumbai Vs. M/s Toyo Engineering India Limited [(2006) 7 SCC 592]***

16. It is also relevant to note that during the lifetime of the deceased employee, a punishment order dated 28.01.2003 had been passed against him in disciplinary proceedings. The said order was challenged in Claim Petition No.1544 of 2007, which came to be allowed and the punishment order dated 28.01.2003 was quashed with all consequential service benefits. Thereafter, consequential orders were also issued by the State Government and ultimately vide order dated 05.10.2009(annexed as

Annexure No. RA-2), a decision was taken to release the retiral dues of the deceased employee.

17. The Central Government, Ministry of Labour, New Delhi, vide Notification dated 01.10.1987 issued in exercise of powers conferred by Sub-Section (3A) of Section 7 of the Payment of Gratuity Act, 1972, specified that in cases where gratuity is not paid within the prescribed period, the employer shall be liable to pay simple interest at the rate of 10% per annum.

18. The Hon'ble Supreme Court in the case of ***R. Kapur Vs. Director of Inspection (Painting and Publication) Income Tax and Another*** enhanced the rate of interest on delayed payment of gratuity. Para 10 judgement is extracted hereinbelow:-

“10. This Court in M.Padmanabhan Nair case has held as under:-

“Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.”

The Hon'ble Supreme Court awarded 18% interest on the delayed payment of gratuity.

19. Likewise in the case of ***Uma Agrawal Vs. State of U.P. and Ors.*** Full Bench of the Hon'ble Supreme Court passed in ***Writ Petition (Civil) No. 771 of 1995*** Hon'ble the Supreme Court observed that in several cases decided by the Hon'ble Supreme Court interest of 12% had directed to be paid by the State for delay in payment of retiral dues.

20. In the case of ***Indrajeet Singh Vs. State of U.P.*** passed in ***Writ Petition No. 1133(S/B) of 2001***, Neutral Citation- ***2008:AHC-LKO:3718-DB***, the Division Bench of this Court while allowing the writ

petition filed by the petitioner commanded opposite parties to pay rate of interest @ 12% from the date of retirement to the date of actual payment of dues to the petitioner.

21. In the case of *Laxman Singh Bhadauriya Vs. Controlling Authority and Others* passed in *Writ-C No. 18684 of 2010*, the learned Singh Judge modified the order and directed the respondents to pay 10% interest on the delayed payment of gratuity.

22. In the case of *Gagan Bihari Prusty Vs. Paradip Port Trust and Others* passed in *Special Leave to Appeal (C) No. 4468 of 2022* vide judgement and order dated 03.03.2025 awarded 10% per annum on the delayed payment of gratuity.

23. From the material brought on record, it is evident that the gratuity amount payable to the deceased employee upon retirement on 31.07.2005 remained withheld without any valid justification and was ultimately released only on 30.07.2024 after prolonged litigation extending over nearly two decades.

24. Once the respondents themselves complied with the order passed by this Court and released the gratuity amount, and further once the plea regarding outstanding house rent had already been rejected during contempt proceedings, it was not open for the respondents to reagitate the same issue while considering the petitioners' claim for interest. Such conduct is clearly impermissible in view of the law laid down by the Hon'ble Supreme Court in *Neelima Srivastava(Supra)*.

25. In view of the foregoing discussions, the Notification dated 01.10.1987 issued by the Government of India, and the judgments of the Hon'ble Supreme Court as well as this Court relating to delayed payment of retiral dues and gratuity, wherein 10% simple interest per annum has been prescribed to be paid by the employer in cases of delayed payment of gratuity, this Court is of the considered opinion that the petitioners are entitled to interest on delayed payment of gratuity.

26. Accordingly, since the petitioners' late father retired on 31.07.2005 and the gratuity amount was actually credited into the

accounts of the petitioners only on 30.07.2024, i.e., after a delay of almost 19 years, the respondents are directed to pay simple interest at the rate of 10% per annum on the gratuity amount for the period commencing from 31.07.2005 till 30.07.2024.

27. The impugned order dated 01.01.2026 is hereby **quashed**.

28. The writ petition succeeds and is accordingly **allowed**.

29. The respondents are directed to calculate and release the aforesaid amount of interest to the petitioners within a period of three months from the date a certified copy of this order is produced before the competent authority.

(Karunesh Singh Pawar, J.)

May 14, 2026

Darpan Sharma