

(2006) 05 SHI CK 0019

In the High Court Of Himachal Pradesh

Case No : C.W.P. No's. 344, 350, 351 and 353 of 2006

Cantonment Board

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 02-05-2006

Acts Referred:

Payment of Gratuity Act, 1972 — Section 7(4), 7(7)

Citation : (2006) 111 FLR 307 : (2007) 1 LLJ 171 : (2006) 2 ShimLC 178

Hon'ble Judges : V.K. Gupta, C.J.;Deepak Gupta, J

Bench : Division Bench

Advocate : R.K. Gautam and Archana Dutt, for the Appellant; Janesh Mahajan, Central Govt. Counsel for the Respondent No. 1, for the Respondent

Judgement

V.K. Gupta, C.J.—By this common order all the four petitions are being disposed of together.

2. As we were in the process of hearing the arguments of Mr. R.K. Gautam, learned Senior Counsel appearing for the petitioner and Mr. Janesh Mahajan, learned Counsel appearing for respondent No. 1, we found that the respondent No. 2 made a mention (in the course of the impugned order) of Sub-section (4) of Section 7 of the Payment of the Gratuity Act, 1972, with respect to the maintainability of the appeals in terms of the second proviso to Sub-section (7) of Section 7 of the said Act. Perhaps, the petitioner in all the aforesaid petitions was under the impression that only Clause (a) of Sub-section (4) supra was applicable, but after we went through the text of the entire Sub-section (4) we found that Clause (c) of this Sub-section actually would be applicable to the facts of this case. Clause (c) reads thus:

The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount

already deposited by the employer.

3. The provision for the pre-deposit of the amount of gratuity as finds a mention in the second proviso to Sub-section (7) supra clearly suggests that such deposit is relatable to and fails under Clause (c) (supra).

4. On the aforesaid being pointed out, Mr. Gautam submits that the petitioner be permitted by this Court to now make the deposits under and in terms of Clause (c) supra and since the petitioner would be doing so, respondent No. 2 be directed by this Court to re-admit the appeals for hearing. Allowing the aforesaid prayer of Mr. Gautam, we permit the petitioner to make the deposits within four weeks from today. On the proof of the deposits being made within the said period, we direct respondent No. 2 to re-admit all the four appeals from out of which the present petitions have arisen. The re-admission of the appeals, however, shall be subject to all exceptions including the exception relating to limitation period for filing of the appeals as is provided in Sub-section (7) supra, of course read with the first proviso to the said Sub-section. While computing the period of limitation, however, the period starting from the date of the passing of the impugned order upto the date of deposit by the petitioner in terms of the aforesaid directions shall be excluded.

5. The petitions are disposed of.

6. In view of the disposal of the main petitions, all the miscellaneous applications in all the cases shall stand disposed of.