
(2012) 03 P&H CK 0073
In the Punjab And Haryana At Chandigarh
Case No : LPA No. 92 of 2010 (O and M)

Dr. Krishan Kanta

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision : 16-03-2012

Acts Referred:

Citation : (2012) 03 P&H CK 0073

Hon'ble Judges : Ranjan Gogoi, C.J.;Ajay Kumar Mittal, J

Bench : Division Bench

Judgement

Ranjan Gogoi, C.J.—This appeal is directed against the order dated 1.4.2009 passed by the learned Single Judge of this Court in Civil Writ Petition No. 1375 of 2009. By the said order, the learned Single Judge has upheld the decision of respondent No. 5-Hindu Kanya College, Kapurthala, to pay gratuity to the appellant-writ petitioner of Rs. 2,80,000/- instead of the claimed amount of Rs. 3,50,000/- . One of the grounds taken in the present appeal is that the learned Single Judge while deciding the case did not take into account the provisions of Ordinance No. 18 (Volume-3) of Guru Nanak Dev University Calendar, which, according to the appellant-writ petitioner, was mandatorily required to be followed by the private and aided colleges. Ordinance No. 18 is to the following effect:-

In addition to the benefits of Provided Fund, the Governing Body of the College would grant to every teacher, at the time of retirement or death (if it is earlier) for efficient and faithful service rendered, gratuity calculated at the rate of half the pay last drawn each completed year of service.

2. From a reading of the pleadings before the learned Single Judge, we find that the aforesaid point was not urged by the appellant-writ petitioner in the writ petition filed. It would, therefore, be incorrect on our part to proceed to examine the correctness of the order of the learned Single Judge by taking into account the provisions of Ordinance No. 18 reproduced above. On the contrary, the correct course of action, according to us, would be not to entertain this appeal

any further but at the same time, the appellant-writ petitioner may be allowed to move the learned Single Judge by way of review, if so advised.

3. Learned counsel for the appellant-writ petitioner has submitted that w.e.f. 1.4.2006, the maximum amount of gratuity payable has been increased to Rs. 10,00,000/- and, therefore, she may be permitted to amend the writ petition. As we have permitted the filing of a review petition before the learned Single Judge, it would be open for the appellant-writ petitioner to urge the said point before the learned Single Judge, if she is so advised.

4. It will also be open for the appellant-writ petitioner to urge any other point with regard to the order of the learned Single Judge insofar as payment of contributory provident fund is concerned. The LPA stands disposed of in terms of the above directions and observations.