
(2001) 10 P&H CK 0055
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 10068 of 1997

Harjinder Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 08-10-2001

Acts Referred:

Payment of Gratuity Act, 1972 — Section 7, 7(3)
Payment of Gratuity Regulations — Regulation 18

Citation : (2001) 10 P&H CK 0055

Hon'ble Judges : S.S. Nijjar, J

Bench : Single Bench

Advocate : Kamal Sehgal, for the Appellant; V.K. Kataria and H.S. Sran, DAG, for the Respondent

Final Decision : Allowed

Judgement

S.S. Nijjar, J.—This order will dispose of C.W.P. No. 10068 of 1997, C.W.P. No. 9825 of 1997 and C.W.P. No. 9258 of 1997.

2. Mr. Kataria, learned counsel appearing for the management-respondent No. 3-Thapar Institute of Engineering and Technology Patiala has submitted that these petitions deserve to be dismissed as the petitioners in these petitions have failed to avail of the alternative remedy provided under the Payment of Gratuity Act, 1972 (The Act for short) and Regulation 18 which provides for an appeal from the order of the Controlling Authority. Petitioners should have made application u/s 7(4)(b) to the Controlling Authority for determination of the amount of Gratuity payable. Against the decision of the Controlling Authority, the petitioners could have filed appeal to the Appellate Authority u/s 7 of the Act. The petitioners in these petitions have rushed to this Court without availing the aforesaid remedies. Therefore, the petitions have to be dismissed with a direction that the petitioners, if so advised, may approach the Controlling Authority or the Appellate Authority under the Act.

3. I have considered the submissions made above. In view of the decision given

in C.W.P. No. 7722 of 2000, these petitions have to be allowed. The law points raised in these writ petitions are identical to the points raised in the writ petition No. 7722 of 2000. The matter is also squarely covered by the judgment of the Division Bench in the case of Ajmer Singh v. State of Punjab and others, 1996(2) SLR 757 : 1996(2) SCT 399 (P&H) (DB).

4. Mr. Kataria relying on Section 7(3-A) of the Payment of Gratuity Act, 1972 has submitted that the petitioners would be entitled only to simple interest not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits. I am of the considered opinion that this limit of interest would apply only if the payment is made by the management without making the retired persons resort to costly litigation. In the present case, the petitioners have not been paid for a period of four years. In such circumstances, this Court would be fully justified in exercising its extraordinary discretionary jurisdiction to award interest at the rate which would do complete justice between the parties.

5. In view of the above, these petitions are allowed. Respondent No. 3 is directed to release the amount of terminal benefits such as gratuity, leave encashment to the petitioners within a period of two months of the receipt of copy of this order. Since the gratuity has not been released to the petitioners, in spite of the legal position having been settled by the Division Bench of this Court, the petitioners shall also be entitled to interest at the rate of 18% from the date of retirement till payment. No costs.

6. Petitions allowed.