

(2013) 10 P&H CK 0332
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 15856 of 2000

Mohinder Singh Chauhan and Others	Vs	APPELLANT
The State of Punjab and Others		RESPONDENT

Date of Decision : 09-10-2013

Acts Referred:

Citation : (2013) 10 P&H CK 0332

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Advocate : Namit Kumar, for the Appellant; Nilesh Bhardwaj, DAG, Punjab, for the Respondent

Judgement

Mahesh Grover, J.—The solitary grievance of the petitioners is that they are entitled to gratuity as per the provisions of the Payment of Gratuity Act, 1972 (hereinafter referred to as "the Act"). It is not disputed by the petitioners that gratuity has been paid to them but the grievance arose from the fact that while computing this benefit, the basic pay has been taken into consideration excluding the dearness allowance. A perusal of Section 4(2) of the Act would reveal that an employee is entitled to gratuity which is to be computed for every completed year of service or part thereof in excess of six months at the rate of fifteen days' wages based on the rate of wage last drawn by the employees concerned. Rule 4(2) of the Act is extracted here-below:

(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wage last drawn by the employees concerned;

2. The term "wage" has further been defined in Section 2(s) of the Act, which is extracted here-below:

(s) "Wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of the employment and which are paid or are payable to him in cash includes dearness allowance but

does not include any bonus, commission, house rent allowance or overtime wages and any other allowance.

3. A bare reading of the aforesaid would reveal that the dearness allowance is a part of pay and, therefore, while computing the gratuity and calculating the 15 days' wages, it would necessarily be an essential component of the wage. Consequently, the writ petition is accepted. The claim of the petitioners that dearness allowance has to form a part of the wages while computing the gratuity is well founded on the basis of the aforesaid provisions of law. The respondents are directed to re-calculate the gratuity in the light of the above and release the benefits to the petitioners as expeditiously as possible, preferably within a period of four months from the date of receipt of certified copy of this order. Petitioners shall also be entitled to interest at the rate of 7% per annum from the date it became due till the date of payment and the same shall be paid by the respondent-Management.