

(1987) 11 P&H CK 0094

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 3408 of 1986 and C.M. No's. 2261, 2942 and 2942-A of 1987

Nathi Ram and others

APPELLANT

Vs

State of Haryana and another

RESPONDENT

Date of Decision : 02-11-1987

Acts Referred:

Payment of Gratuity Act, 1972 — Section 1(3)(b)

Citation : (1987) 11 P&H CK 0094

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

Bench : Single Bench

Advocate : Sudarshan Goel, for the Appellant; Rajesh Chaudhry, for the Respondent

Final Decision : Allowed

Judgement

S.S. Kang, J.—C.M. No. 2261 of 1987 is allowed and Civil Writ Petition No. 3408 of 1986 is accepted. The writ petition is squarely covered by the ratio of the decision by a Division Bench of this Court in Kundan Lal Narang, Superintendent/Tax Superintendent (Retired), Municipal Committee, Yamuna Nagar v. The State of Haryana (1987) 92 P. L. R. 431 wherein it has been held that every Municipality/Municipal Committee is an "establishment" as defined in Clause (b) of Sub-section (3) of Section 1 of the Payment of Gratuity Act, 1972 (hereinafter referred to as "the Act") and the employees of the municipal committees are to be paid gratuity on their retirement in terms of the provisions of the Act.

2. Mr. Rajesh Chaudhry, learned Counsel for the Respondent-Municipal Committee, sought to contend that a Municipality is not an "establishment". This point has been decided against him in Kundan Lal Narang's case (supra).

3. Faced with this situation, Mr. Chaudhry contended that the Respondent-Committee is liable to pay gratuity to only those employees who retired after 23rd January, 1982 when a notification had been issued by the Central

Government u/s 1 (3) (c) of the Act indicating that the provisions of the Act had been made applicable to the local bodies in the country. This plea has also been disposed of in Kundan Lal Narang's case (supra). It has been explained that the Act stood applied to the municipalities/municipal committees since 1972 when the Act came into force because of the definition of "establishment" contained in the Act. The notification dated January 23, 1982 issued by the Central Government does not indicate that such establishments as were being now covered could not have been covered already by the provisions of Section 1 (3) (b) of the Act. This plea was also turned down by the Bench.

4. It has been contended by Mr. Chaudhry that the decision in Kundan Lal Nanang's case (supra) does not flay down the correct law. Sitting singly, I am bound by the decision of the Division Bench. This plea also cannot prevail.

5. No other point is urged.

6. The writ petition is allowed qua all the Petitioners Nos. 1, 10 and 12 who had retired before the enforcement of the Act because the petition on their behalf is dismissed as withdrawn as prayed for by Mr. Sudarshan Goel. However, Petitioners Nos. 1, 10 and 12 shall be at liberty to file a fresh petition on the same cause of action, if so advised. The Respondents shall pay the amounts due to the remaining Petitioners within six months from today with interest at the rate of 12 per cent per annum from the dates it became due.