

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

C.W.P. No.925 of 1994 (O&M)
DATE OF DECISION : 15.1.2015

Board of Trustees, Haryana Rajya Bal Bhawan

PETITIONER

VERSUS

The Appellate Authority and others

RESPONDENTS

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

1. Whether reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present:- Shri S.N.Saini, Advocate for the petitioner.

None for the respondents.

MAHESH GROVER, J.

The petitioner impugns the order Annexure P-3 passed by the Appellate Authority under the Payment of Gratuity Act (hereinafter referred to as the Act) granting gratuity to one of the employees namely respondent No.3. He had superannuated from service in the year 1991.

The facts are not in dispute but the petitioner contends with reference to the provisions of Section 1(3)(c) of the Act that a charitable trust is not covered

within the ambit of the provisions of the Act and therefore, the reasoning adopted by the Appellate Authority by relying upon a decision of the High Court of Madras is totally erroneous.

The reply of respondent No.2 indicates the existence of a notification where charitable trusts have been included. This fact has neither been denied by the petitioner, nor has any material been shown to offset it.

Be that as it may, apart from the fact that the admissibility of the benefit under the Act to the employees of the petitioner/trust, the fact still remains that the petitioner has been paying the gratuity to its employees whose names have been mentioned in the written statement itself. In the wake of any denial to this fact, I am of the view that de hors the legal controversy sought to be raised by the petitioner, the fact that they have been extending the benefit to some of the employees, would be sufficient to negate their claim as denial of such a benefit to the petitioner while maintaining admissibility to other similarly situated persons would clearly be arbitrary.

Besides this, while admitting the petition on 24.1.1994, this Court had passed the following order :-

“Admitted.

Gratuity amount deposited by the petitioner be paid to respondent No.3 on furnishing bank guarantee for restitution in case of success of the petition.

To be listed for hearing within 2 years. Dasti on payment.”

Apparently, the gratuity would have been paid by the petitioner upon furnishing a bank guarantee. The facts also indicate that the employee worked with the petitioner from 1957 to 1991 and today, when the petition is being answered, the said employee would be highly advanced in years and thus, it would

not be in the interest of justice even to unsettle the impugned order which stands in favour of the employee particularly when the petitioner itself has been giving such a benefit to its employees.

Therefore, no interference is warranted at this stage.

Dismissed.

In case the employee has taken the amount after furnishing bank guarantee, the same be liberated from the impact of the interim order of this Court.

January 15, 2015
GD

(MAHESH GROVER)
JUDGE