IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.25492 of 2012
Date of decision: 20.11.2015

M/s Jassa Ram Khusi Ram Pvt. Ltd.

... Petitioner

Versus

The Appellate Authority and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.B.S.Mittal, Advocate,
for the petitioner.

Mr.Pawan Hooda, Advocate,
for the respondent-workman.

*****

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

Both the courts have returned concurrent findings of fact establishing a clear right to payment of gratuity in favour of the workman. The dispute is with respect to the length of service rendered with the management which has over period of time transformed itself from a sole proprietorship to a partnership firm and lastly into a private limited company incorporated under the Companies Act, 1956 in the year 1995 as per certificate of incorporation. There is a statement made in the cross-examination of the management witness that prior to the coming into existence of the partnership firm, the establishment was being run by its sole proprietor, namely, Jassa Ram who became one of the directors of the company when it was incorporated in 1995. There is, therefore, a functional integrality and continuity in all the three stages and, therefore, the orders passed by the authority under the Payment of Gratuity Act and the appellate authority are not open to be disturbed in exercise of supervisory jurisdiction of this Court provided by Article 226 of the Constitution where the judicial review is restricted only to examine whether the work of the Tribunal suffers from fundamental flaw of law or fact or is the result of mis-reading of evidence adduced on the record.

2. The other parameters of interference are whether the dispensation is perverse or irrational as one which would defeat logic or the orders suffer from the error apparent on the face of record. None of these infirmities are present in the impugned orders.

3. However, it is lastly argued by Mr. Mittal appearing for the management that the interest @ 10% p.a. awarded by the Courts *a quo* is excessive especially when it spans a period from 24.7.2006 till 30.6.2011. The controlling authroity has calculated the amount of interest as on the date of the impugned order passed on June 30, 2011 in the sum of ₹ 22,125/-. The gratuity amount has been computed at ₹ 45,000/- and by adding the interest component, the total amount comes to ₹ 67,125/- which has been decreed in favour of the workman. The interest has been calculated on the higher side @ 10%. This, Mr.Mittal submits, is excessive interest and in the new economic regime, the interest rates have fallen and it would be more appropriate for this Court to consider modifying the award with respect to interest and scaling it down to 6% p.a. recognized by the Code of

Civil Procedure as interest payable on delayed payments of money.

4. Mr.Pawan Hooda appearing for the respondent-workman is not able to satisfy this Court that the interest should be awarded @ 10% especailly when there are certain areas of this case which were hotly contested with reference to the evidence.

5. This Court would, therefore, deem it more appropriate and just in order to secure the ends of justice that the interest @ 6% deserves to be awarded and the orders of the controlling authority and the appellate Tribunal deserve to be modified with respect to the element of interest.

6. Having heard the learned counsel for the parties at length, this Court while upholding the orders of the Courts below modifies the appellate order and consequently, the order of the controlling authority under the Payment of Gratuity Act, Panipat, Circle-I and direct that interest would accrue @ 6% from 24.7.2006 till 30.6.2011 as due and payable on the principal amount of unpaid gratuity.

7. Mr.Mittal submits that the principal amount of gratuity has been deposited on August 16, 2011 for entertainment of the first appeal and that amount lies deposited and is accessible to the respondent-workman if ordered to be released in his favour. He is not certain though whether this amount is invested in an interest bearing account. In order not to visit injustice on the workman, a direction is issued to the executing court to order interest on the amount of deposit by the management to run @ 6% chargeable to the authority/bank/treasury where the money might be lying deposited by the management, failing all else, would lastly be the responsibility of the management to reimburse. The amount deposited will

be handed over to the respondent-workman and in addition thereto, the interest component will be worked in the manner this Court has modified the orders of the courts below.

8. The writ petition is partially allowed to the extent indicated and directions issued.

(RAJIV NARAIN RAINA)
JUDGE

November 20, 2015
Paritosh Kumar