

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.2351 of 1991 (O&M)
Date of decision:04.05.2016

Gurbax Singh

... Petitioner

Vs.

M/s Bhupindera Cement Works Surajpur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- None.

AMIT RAWAL J. (Oral)

The present case is partially burnt case, which has been reconstructed. Since the main case has already been dismissed for non-prosecution on 23.03.2009, this Court on its own motion, proceeded further to decide it on merits.

The present petition has been filed against the order dated 21.12.1989 passed by the Authority under the Payment of Wages Act, Ambala. The petitioner had filed a claim petition before the aforementioned authority claiming additional gratuity by virtue of tradition of the company and also claimed bonus for the period August 1985 to January 1986. It has been stated in the claim application that Income Tax had been deducted from gratuity which

was illegal.

The aforementioned claim was contested on the ground that Income Tax Deduction was strictly as per the provisions of Income Tax Act and regarding bonus for the year 1985-86, it was lying with the respondents but the applicant did not turn up to collect the same. During the proceedings, respondent handed over a cheque of ₹652.47 on 18.08.1988 in lieu of bonus for the year 1985-86 and LTA which was accepted by the petitioner.

It is the case of the petitioner that he was appointed as Armature Winder and Electrician at a monthly wages of ₹1400/- and after completing 38 years of service retired on 31.01.1986. The claim petition had been filed in 1999. Accordingly, it was held that gratuity cannot be claimed under the Payment of Wages Act as per Section 2 (v)(6) of the Payment of Gratuity Act and thus, application was not maintainable. The aforementioned order was assailed by filing an appeal under Section 17 along with an application seeking condonation of delay before the Additional District Judge. The said appeal has been dismissed on the ground that there was delay in filing the appeal.

No doubt, delay was not more than a month and the appeal was dismissed on the ground of limitation but the fact remains that claim of the petitioner was not falling under the Payment of Wages Act and the remedy was to file a petition under the Payment of Gratuity Act before the Competent Court treating the petition under

Payment of Gratuity Act. Having no jurisdiction to pass an order, it would farcical exercise to condone the delay and remit the matter back to Additional District Judge for reviewing the claim for having jurisdictional error.

In view of the aforementioned, no ground is made out for interference in the impugned order.

Accordingly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

May 04, 2016
savita