

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.14762 of 2013

Date of Decision:26.08.2016

Rajvir Singh

... Petitioner

Vs.

The Appellate Authority and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Ramesh Goyat, Advocate for the petitioner.

None for respondent No.1.

Mr. Ram Pal Verma, Advocate for respondent No.3.

P.B. BAJANTHRI J.

Through the instant petition, the petitioner has challenged the order dated 23.01.2013 passed in appeal under Section 7 sub clause 5 of the Payment of Gratuity Act 1972 (for short “the Act”) against the order dated 31.08.2012 passed by the Controlling Authority, Payment of Gratuity Act, Circle-2, Sonapat.

The petitioner is stated to have been appointed in the month of April 2001 in the M/s Conalt Fuel System, Delhi and he worked till 1.8.2006. Owners of the M/s Conalt Fuel System started another company namely M/s Tulsa Gas Technologies India Pvt. Ltd. The petitioner was asked to work in the new firm namely M/s Tulsa Gas Technologies India Pvt. Ltd. He has worked from 2.8.2006 upto 30.10.2011. In November 2011, there was a dispute between the petitioner and the M/s Tulsa Gas Technologies India Pvt. Ltd. Petitioner's services have been terminated. In this backdrop, the petitioner approached the Controlling Authority by making an application for payment of gratuity under the Act. Vide order

dated 31.8.2012, the Controlling Authority accepted the petitioner's application and passed order that the petitioner is entitled for the amount of gratuity to the tune of Rs.2,18,435 and interest thereupon Rs.14,744/- totaling a sum of Rs.2,33,179/- from the respondent herein. The respondents were also directed to deposit the amount alongwith interest in the controlling authority office within 30 days failing which the respondent shall also liable to pay further interest @ 9% per annum on the amount of gratuity.

Feeling aggrieved by the order of the Controlling Authority dated 31.08.2012, the respondents presented appeal under Section 7 sub section 5 of the Act. The Appellate Authority modified the Controlling Authority's order by giving finding that the petitioner is entitled to gratuity amount only for five years, two months and twenty eight days. The said service rendered by the petitioner in M/s Tulsa Gas Technologies India Pvt. Ltd. Insofar as service rendered in M/s Conalt Fuel System is concerned, the same has been ignored on the plea of the respondents that M/s Conalt Fuel System and M/s Tulsa Gas Technologies India Pvt Ltd. are two different companies. Owners of M/s Tulsa Gas Technologies India Pvt Ltd. have nothing to do with the M/s Conalt Fuel System. The respondents have not denied that the petitioner served from 2001 to 2006 in M/s Conalt Fuel System. At the same time, they have not denied that they were not owners of the M/s Conalt Fuel System so as to deny gratuity amount to the petitioner for the period from 2001 to 2006. Thus, the Appellate Authority under the Act held that the petitioner has served only for five years, two months and twenty eight days in the M/s Tulsa Gas Technologies India Pvt. Ltd. The service rendered in the M/s Conalt Fuel System has not been taken into

consideration although the respondents are owners. The same has not been disputed by the respondents. Therefore, the order of the Appellate Authority is set aside by affirming the Controlling Authority order.

The petition stands disposed of.

26.08.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No