

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10738 of 2016
Date of Decision:- 29.7.2016.

Ramesh Chand Sedha

.....Petitioner

Versus

The Deputy Labour Commissioner, Majri Chowk, Panchkula and others

.....Respondents

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

Present: Ms. Anju Sharma, Advocate for the petitioner.

P.B. BAJANTHRI, J. (Oral)

1.) In this petition, petitioner has questioned the orders dated 27.8.2007 and 10.2.2012. The petitioner joined as a Helper in the year 1955 with the respondents. He has earned promotion to the cadre of Driver and Heavy Equipment Operator. Respondents introduced Voluntary Retirement Scheme (for short 'VRS'). The petitioner is one of the optee under the VRS. His financial benefits whatever he is entitled under the VRS has been settled. The petitioner claims additional gratuity with reference to the Voluntary Retirement Scheme. Para 5 of the VRS read with Annual Audit Report Item No.5 (b) (iii) reads as follows:-

“(iii) Every employee who has joined before December 01, 2005 and separates from service of the Company on Superannuation and on medical grounds is entitled to additional gratuity. The scheme is Non Funded”

The petitioner's voluntary retirement application was accepted

in the year 1993. Thereafter, belatedly and beyond the limitation period, he approached the Trial Court by filing a suit. Suit was dismissed. Thereafter, petitioner's appeal was dismissed by the Appellate Court. Thus, there is finality regarding claim of the petitioner for additional gratuity. When things stood thus in the year 2005, the petitioner submitted an application for extending additional gratuity before the Controlling Authority under the Payment of Gratuity Act, 1972, Panchkula. The Controlling Authority has decided the application and rejected the claim of the petitioner stating that he has no right and he has already suffered orders before the Trial Court as well as Appellate Court. Feeling aggrieved by the order of the Controlling Authority dated 27.8.2007, petitioner has preferred appeal before the Appellate Authority under the Payment of Gratuity Act, 1972. The Appellate Authority has rejected the appeal. Hence, the present petition.

3.) Learned counsel for the petitioner submitted that under the VRS Scheme, petitioner is entitled for additional gratuity and she has also pointed out that there is a discrimination in granting additional gratuity. It was submitted that additional gratuity was also paid to Sh. S.P. Guleria, Krishan Kumar and others. Therefore, denial of additional gratuity to the petitioner amounts to discrimination. Perusal of the dates and events and the petitioner has suffered orders before the Trial Court and Appellate Court. The petitioner has failed to prosecute Appellate Court order, therefore, it has attained finality. Consequently, application before the Controlling Authority under the Payment of Gratuity Act itself is not maintainable. That apart, there is a delay and laches on the part of the petitioner in approaching the Authority. The petitioner has not made out a

Writ petition stands dismissed.

No order as to costs.

(P.B. BAJANTHRI)
JUDGE

July 29, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.