

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

Date of decision:27.4.2016

**1.
CWP No.9626 of 2013**

The Punjab State Cooperative Supply & Marketing Federation Ltd.	...	Petitioner
Versus		
Radhe Sham & ors.	...	Respondents

**2.
CWP No.18386 of 2014**

The Punjab State Cooperative Supply & Marketing Federation Ltd.	...	Petitioner
Versus		
Appellate Authority & ors.	...	Respondents

**3.
CWP No.6443 of 2015**

The Punjab State Cooperative Supply & Marketing Federation Ltd.	...	Petitioner
Versus		
Appellate Authority & ors.	...	Respondents

**4.
CWP No.25323 of 2015**

The Punjab State Cooperative Supply & Marketing Federation Ltd.	...	Petitioner
Versus		
Appellate Authority & ors.	...	Respondents

**5.
CWP No.25334 of 2015**

The Punjab State Cooperative Supply & Marketing Federation Ltd.	...	Petitioner
Versus		
Appellate Authority & ors.	...	Respondents

**6.
CWP No.25397 of 2015**

The Punjab State Cooperative Supply & Marketing Federation Ltd.	...	Petitioner
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Versus

Appellate Authority & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Parminder Singh-I, Advocate,
for the petitioners ((in CWP No.9626 of 2013).

Mr. Vikas Singh, Advocate,
for the petitioners
(in CWPs No.18386 of 2014, 6443, 25323, 25334,25397 of 2015).

Mr. Vaibhav Sharma, D.A.G., Punjab.

Mr. RN Sharma, Advocate,
for respondent No.1 (in CWP No.9626 of 2013).

Ms. Jagdeep Bains, Advocate,
for respondent No.3 (in CWP No.25334 of 2015).

Mr. Atul Kaushik, Advocate,
for respondent No.3 (in CWP No.18386 of 2014).

Mr. Raj Kaushik, Advocate,
for respondent No.3 (in CWP No.6443 of 2015).

Mr. Manoj Sharma, Advocate, for
Mr. Amit Sharma, Advocate,
for respondent No.3 (in CWP No.25323 of 2015).

Mr. Anupam Bhardwaj, Advocate,
for respondent No.3 (in CWP No.25397 of 2015).

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

RAJIV NARAIN RAINA, J.(Oral)

1. This order will dispose of the above cited cases as common questions of law and fact are involved in them which can conveniently be decided by a common order.
2. Challenge in these petitions brought by Markfed is limited to the rate of interest applicable on gratuity payable w.e.f. January 31, 1999

to the respondents. The right to interest accrues under the Payment of Gratuity Act, 1972 (for short 'the Gratuity Act') from 30 days after superannuation. The petitioner asserts statutory interest is prescribed in Section 7(3A) of the Gratuity Act. Since the interest is fixed statutorily, the respondents are entitled to the same as applied in the decision of the Supreme Court in **Y.K. Singla v. Punjab National Bank & ors.**, (2013) 3 SCC 472. The Supreme Court held that Section 14 of the Gratuity Act overrides other enactments. The Gratuity Act enjoins superior status vis-a-vis any other enactments inconsistent therewith being a special law. The Supreme Court considered the question of payment of interest on delayed gratuity in the light of the provisions of Regulation 46 of the Punjab National Bank (Employees) Pension Regulations, 1995 and Sections 4, 7 and 14 of the Gratuity Act. It is not disputed that delay occurred in payment of gratuity from the date of superannuation and as a result the respondents would be entitled to statutory interest under Section 7(3A) of the Gratuity Act which cannot be denied to them.

3. Merely because minor or major punishment is imposed on an employee, which does not involve financial loss to the employer, cannot be recovered from the gratuity as that would amount to what is akin to double jeopardy. Mr. Vikas Singh submits that disciplinary proceedings in some cases were pending and that is the reason for withholding gratuity. The petitioners in each of the cases have retired from service. The disciplinary proceedings have not culminated in final orders. In *Y.K. Singla's case(supra)*, the Supreme Court dealt with a case of exoneration from disciplinary proceedings involving acquittal in a corruption case and

relation to right to gratuity. Mr. Vikas Singh submits pro bono publico [since State is not contesting party being proforma respondent] that the case is distinguishable to the extent that it is only upon exoneration does a right to gratuity arise. The question of exoneration can only arise if enquiry proceedings are held and concluded. However, both the counsel rely on the *Y.K. Singla's case(supra)* reading the judgment in different ways. In view of the nature of the order purposed to be passed, there is no necessity to enter upon the facts of each of the cases. I am not impressed by Mr. Vikas Singh's contention in trying to distinguish the case.

4. Accordingly, the writ petitions are found without merit and are hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

27.4.2016
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