

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP- 14910-1999 (O&M)
Date of decision: 12.05.2017

Devi Dass (through Lrs)

.....Petitioner

versus

Haryana Vidyut Prasharan Nigam Limited and others

.....Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Rajesh Arora, Advocate for the petitioner
Mr. Gaurav Mohunta, Advocate for the respondents

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Kuldeep Singh, J. (Oral)

Petitioner who was working in Punjab State Electricity Board now succeeded by HVNPL, retired as Terminal Supervisor Grade-II on 30.6.1991. Petitioner is now dead and succeeded by his legal heir.

Learned counsel for the petitioner has now restricted his claim to the payment of gratuity under the Punjab Civil Services Rules, claiming that the gratuity under the Payment of Gratuity Act, 1972 was wrongly paid. It is claimed that provisions of Punjab Civil Services Rules are applicable to the service of the petitioner. Learned counsel for the petitioner has referred to order dated 29.8.1964 (Annexure P8), which shows that pending the framing of the regulations, the government rules, regulations and instructions of Punjab Government shall apply to the employees of the Board. It is further stated that a similar question has already been settled by this Court in Roshan Lal vs. Haryana State Electricity Board, 1996(2) S.C.T. 819.

On the other hand, respondents have taken a stand that the

gratuity was calculated as per Payment of Gratuity Act, 1972 since the petitioner had opted for EPF.

I have heard learned counsel for both the parties and have also carefully perused the record.

Admittedly, the service conditions of the petitioner were governed by the Punjab Civil Services Rules. The option for EPF does not mean that gratuity shall also be paid under the Payment of Gratuity Act, 1972 and not under the Punjab Civil Services Rules. For the entitlement of gratuity as per Punjab Civil Services Rules, the matter has already been settled by this Court in Roshan Lal's case (supra).

Learned counsel for respondent has pointed out that the gratuity under the Punjab Civil Services Rules will be less than the payment already paid under the Payment of Gratuity Act, 1972.

Learned counsel for the petitioner was confronted with the same. He has stated that claim of the respondent is incorrect and he is claiming that the calculation being made by the respondent is incorrect.

It being so, the present writ petition is allowed to the extent that the respondents are directed to calculate and pay gratuity to the legal heir of the petitioner in terms of Punjab Civil Services Rules. Needless to say if excess amount is payable by the respondents, the same shall be paid along with interest @ 9% per annum from the date of filing of writ petition i.e. 25.10.1999. However, if it is found that excess payment has been made to the petitioner, the petitioner will refund the same with same rate of interest @ 9% per annum from the same date.

12.05.2017

gk

Whether speaking/ reasoned:

Whether Reportable:

Yes

No

(Kuldip Singh)
Judge