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

CWP-572-1999 (O&M)
Date of decision: 08.02.2017

M.S.Pannu

…..Petitioner

versus

Punjab State Cooperative Bank Limited and others

……Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Deepak Agnihotri, Advocate for the petitioner
None for respondent Nos.1 and 3
Mr.R.S.Pathania, DAG Punjab

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?

<u>Kuldip Singh, J.</u> (Oral)

Petitioner retired as Senior Accountant from the service of respondent nos.1 and 3 on 31.10.1995 on attaining the age of superannuation. The short claim pressed before this Court at the time of arguments is that the gratuity was paid to the petitioner vide letter dated 2.11.1996 (Annexure P2) which was calculated on the basic pay, whereas it should have been calculated on the entire emoluments.

Reply of respondent no.1 shows that in addition to taking objection regarding the jurisdiction of this Court, it is not disputed that gratuity is calculated on the basic pay. The formula adopted by the respondents, as reproduced in the written statement is extracted as under:-

> Gratuity calculation formula is as under:-
> Date of retirement: 31.10.1995
> Date of joining: 17.05.1962
> Worked for 33 years
> For 25 years gratuity calculation is for 15 months pay
> For 8 years gratuity calculation is for 8 months pay

Thus, total gratuity is to be paid for 23 months
Basic pay 5350/-
Average pay for 12 months from
1.11.1994 to 31.10.1995 = 12 months
1.11.1994 to 5.11.1995 = 05 days
499 x 5 = 817.00

30
6.11.1994 to 30.11.1994 25 days

Rs.5110x25 = 4250.00 rupees

30
1.12.94 to 31.12.94 = 1 month
Rs.5100 x 1 = 5100.00 rupees
1.1.95 to 31.10.95 = 10 months
Rs.5350 x 10 = Rs.53,500.00

Thus the average of 12 months pay comes to Rs.63,667.00
and average of one month pay comes to Rs.5305.00

It is further recorded that the gratuity is calculated on the last pay drawn i.e. Rs.5305 x 23 months which comes to Rs.1,22,015/- and the same amount has been paid vide Annexure P2.

Today none is present for respondent nos.1 and 3. However, learned State counsel -respondent No.2 has asserted that the gratuity has been paid. It is also stated that earlier, the petitioner filed CWP No.13911 of 1996 regarding claim of retiral benefits.

Learned counsel for the petitioner has informed this Court that the said writ petition was disposed of by this Court vide order dated 27.1.2012 wherein the entire retiral benefits were ordered to be released within a period of 8 weeks along with interest @ 9% per annum.

In the present case, the short question is as to whether the gratuity is payable on the basic pay or on the entire emoluments?

I am of the view that the gratuity is to be calculated on the entire emoluments and not on the basic pay as was done by the respondents as made out from the written statement.

A similar question arose before this Court in CWP No.1182 of 1997, decided on 27.11.1997 against the same respondents, titled as Manjit Singh vs. The Punjab State Cooperative Bank Ltd and others. This Court, after considering Rule 3A of the Punjab State Cooperative Financing Institutions Service (Common Cadre) Rules concluded that the gratuity is not to be calculated on the basic pay and is to be calculated on the entire emoluments.

It being so, the petition is allowed. Respondents are ordered to release the gratuity on the total emoluments. The balance gratuity be released within two months from the date of receipt of a certified copy of this order along with interest @ 9% per annum.

08.02.2017 **(Kuldip Singh)**
gk **Judge**

Whether speaking/ reasoned: Yes
Whether Reportable: No