

CWP No. 29869 of 2018

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

CWP No. 29869 of 2018

Date of Decision: 27.11.2018

Punjab State Cooperative Supplies, Marketing Federation Ltd. & anr.
...Petitioners

Vs.

Barjinder Pal and others

...Respondents

2. CWP No. 29871 of 2018

Punjab State Cooperative Supplies, Marketing Federation Ltd. & anr.
...Petitioners

Vs.

Gurmit Singh and others

...Respondents

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

Present: Ms. Reeta Kohli, Senior Advocate with
Mr. Rahul K. Sharma, Advocate
for the petitioners.

RAJIV NARAIN RAINA, J. (Oral)

1. This order shall dispose of the above mentioned writ petitions as common issues are involved which can be decided by a joint order.

2. Facts are taken from CWP No. 29869 of 2018 for convenience.

3. Challenge in this writ petition is to the order of the Controlling Authority under the Payment of Gratuity Act, 1972 directing the petitioning Markfed to pay interest @ 9% on the principle amount of gratuity which was due and applicable to the 1st respondent

on his superannuation in the year 2008. In appeal to the Appellate Authority, the order of the Controlling Authority has been upheld but the rate of interest has been modified to 10% on the principle amount of gratuity.

4. In this petition, the dispute has been raised that 10% interest is on the higher side. The principle amount of gratuity is not disputed. Section 7 of the Act deals with determination of amount of gratuity. Section 7 (3) provides that employer shall arrange to pay the amount of gratuity within 30 days from the date it becomes payable to the person to whom gratuity is payable. Sub-Section 3-A of Section 4 provides as under:

“(3-A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3) the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the Controlling Authority for the delayed payment on this ground].”

5. The 1st respondent may have delayed in applying for gratuity but he had no option to claim his dues. Right to interest is a continuing and recurring cause of action. Delay in payment of gratuity

is not attributable to the 1st respondent claimant since he is not at fault and on the other hand the management is to blame for the delay. Consequently, interest kept accruing on the unpaid principal for the relevant period and has rightly been determined by the Appellate Authority @ 10%, which percentage of interest is the specified rate of simple interest vide Standing Order 874 (E) dated 01.10.1987.

6. Therefore, the contention of Ms Reeta Kohli, Senior Advocate that 10% interest, which is the notified statutory rate of interest, is on the higher side is a result of overlooking the Standing Order which prescribes 10% interest per annum on delayed payments and accordingly, the submission is devoid of merit and is rejected.

7. As is the settled position interest is payable from the date of superannuation and not from the date of filing the application. This is due to the fault of the petitioner in not releasing the amount of gratuity as per the provisions of the Act.

8. I would, therefore, have no reason to interfere in the orders of the Controlling and Appellate Authority and would dismiss the petitions in *limine*.

(RAJIV NARAIN RAINA)
JUDGE

27.11.2018

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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*