IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 29882 of 2018
Date of Decision: 27.11.2018

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

Vs.

Ram Chand Garg 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. The challenge in this petition is confined to rate of interest and from which date it is payable. The law is that gratuity is due and payable from the date of retirement or from the date of events specified in Section 4 of the Payment of Gratuity Act, 1972 which provides that the gratuity shall be payable to the employee on termination of his employment after he has rendered continuous service for not less than five years. The controlling authority by his order dated 13.10.2016 had held that 1st respondent is entitled to receive an amount of Rs. 1,80, 207/- as balance unpaid gratuity along with 6% interest per annum from the date of filing of the application on 02.05.2016. The aggrieved employee carried an appeal to the appellate authority claiming that interest should be enhanced to 18% and the payment be made applicable from the date of retirement i.e. for a period from 31.10.2016

to 31.03.2017 and, thereafter, interest till actual payment. The appellate authority has held that the principle amount of gratuity was due and payable from the date of retirement and has modified the order of the controlling authority by its order dated 19.04.2018 to the extent that interest was required to be paid at the statutory rate of 10% per annum w.e.f 01.12.2006 on the amount of Rs. 3,90,450/- actually paid by Markfed at the time of superannuation till the entire amount was actually paid and 6% on the balance amount of Rs. 1,80,207/- till its actual payment. I find no infirmity in the relief granted. However, it has been argued by learned senior counsel that there was considerable delay in filing the appeal (1 year and 2 months) whereas sub-section (7) of Section 7 of the Act prescribes period of 60 days for preferring an appeal from the order of controlling authority and further period of 60 days subject to showing sufficient cause which prevented the appellant from approaching the authority.

2. I have considered this argument but am not persuaded by it since the balance amount was a pre-existing right which was recurring in nature and, therefore, loss was occasioned everyday to the retired employee. On this equitable principle, I would hold that the appeal was not liable to be dismissed on the point of limitation. It may also be noted that no specific objection was taken by Markfed in the appeal on bar of limitation and, therefore rights, if any, stand waived.

3. No interference is called for in the orders of the authorities. Accordingly, this petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

27.11.2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No