

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.30656 of 2018

Punjab State Civil Supplies
Corporation Limited and another ... Petitioners
Versus

Krishan Kumar Dhingra and another ... Respondents

2. CWP No.30660 of 2018

Punjab State Civil Supplies
Corporation Limited and another ... Petitioners
Versus

Vinod Kumar Bajaj and another ... Respondents

Date of Decision: 18.12.2018

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

Present: Mr. Athar Ahmed, Advocate,
for the petitioners.

RAJIV NARAIN RAINA, J.(Oral)

This order will dispose of CWP No.30656 of 2018, *Punjab State Civil Supplies Corporation Limited and another v. Krishan Kumar Dhingra and another* & CWP No.30660 of 2018, *Punjab State Civil Supplies Corporation Limited and another v. Vinod Kumar Bajaj and another*. The facts are taken from CWP No.30656 of 2018.

CWP-30656-2018

Respondent No.1 retired as an Audit Officer on April 30, 2015.

He was not paid gratuity by the petitioner-Corporation. He filed a claim before the Controlling Authority, Ferozepur on January 06, 2016. The claim was allowed for a sum of ₹10 lac with interest @10% per annum from the date of retirement. In appeal to the appellate authority-cum-Additional

Labour Commissioner, Punjab, Chandigarh the order of the controlling authority was maintained. The authorities were of the view that forfeiture of gratuity amount has to be effected only for prescribed eventualities as provided in Section 4 (6) of the Payment of Gratuity Act, 1972 ("1972 Act"). The dispute was not that the 1972 Act did not apply. The gratuity amount was withheld by the Corporation due to pendency of a charge sheet dated August 29, 2011. The enquiry was not concluded even in four years when the petitioner was allowed to retire on reaching the age of superannuation. After retirement, the respondent was informed of the decision of the Corporation that enquiry has been concluded and penalty of censure has been inflicted on him. The charge-sheet has not been placed on record but Mr. Athar Ahmed says that it has something to do with an insurance claim made by the LR's of a deceased employee for which the respondent was a dealing hand. He submits that Rule 2.2 (b) (c) of the Punjab Civil Services Rules, Vol. II is attracted and gratuity can be withheld in case, enquiry is pending on the date of retirement.

The Gratuity Act is a special Act. Section 4 deals with payment of gratuity. Sub section (6) of Section 4 provides situations where payment can be withheld or refused. The provision reads:-

"Notwithstanding anything contained in sub-section (1),--

(a) the gratuity of an employee, whose services have been terminated for any act, willful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;

(b) the gratuity payable to an employee 1[may be*

wholly or partially forfeited]--

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.”

When the charge-sheet was not for causing financial loss to employer and none of the above situations envisaged in the sub-section (6) of Section 4 of the Act were satisfied and the penalty chosen is minor censure then I find hardly any strong reason to upset the work of the authorities in awarding interest from the date of superannuation and not from the date when the penalty of censure was imposed on September 07, 2016. The period in question is approximately one year and the difference would come to no more than about ₹1 lac. Interest has been paid from the date of decision on the charge-sheet on September 01, 2017. Qua this period interest has been paid at the statutory rate of 10% per annum.

There is no patent error or perversity in the orders of the authorities apparent on the face of the record. For these reasons, the respondent is not put to notice and the petition stands dismissed.

CWP-30660-2018

This case is similar to the one above as far as issue of interest is concerned. The charge-sheets are different. This case involves of concealment of facts in a criminal case before the trial Court leading to an acquittal.

The above order will apply to this case *mutatis mutandis*.
Stands disposed of. The orders of the authorities below are maintained.

18.12.2018
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No