

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Letters Patent Appeal No. 64 of 2018 (O&M) in
CWP No. 24417 of 2015
Date of decision: 16.1.2018

Hawa Singh

.. Appellant

v.

Cement Corporation of India Limited and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE B. S. WALIA

Present: Mr. Pankaj Jain, Advocate for the appellant.

...

Rajesh Bindal J.

The order passed by the learned Single Judge, whereby the orders passed by the Appellate Authority and the Controlling Authority under the provisions of Payment of Gratuity Act, 1972 (for short, 'the Act') were set aside and the matter was remitted back to the Controlling Authority to go into the aspect as to whether the appellant was employed directly by the respondent-management or through a contractor so as to fix the liability for payment of gratuity. The findings were recorded noticing that there was no material produced on record by the management to establish its stand, though a plea was taken.

We do not find any error in the order passed, as for recording a finding on the issue some material may have to be produced by either of the parties. Learned counsel for the appellant submitted that the gratuity is

payable to the workman. The only issue would be as to who would be responsible as to whether it is principal employer or the contractor as the plea sought to be raised by the management is that the appellant was employed through a contractor. In fact, that will remain a dispute *inter-se* between the management and the contractor. He further submitted that 50% of the amount of gratuity determined by the Controlling Authority was deposited with the Appellate Authority under the Act. The amount may be directed to be paid to the appellant, who has already superannuated. He is ready to furnish surety for this.

We find merit in the aforesaid contention raised by learned counsel for the appellant. The Appellate Authority, with whom the amount deposited by the management is lying, will transfer the same in the account of the appellant after he furnishes complete particulars of his account number to the Appellate Authority within one week or the needful having been done by the appellant in this regard. In addition, the appellant shall also furnish surety for return of the amount in case finally he is not found entitled to payment of gratuity by any authority/court.

The appeal stands disposed of.

(Rajesh Bindal)
Judge

(B. S. Walia)
Judge

16.1.2018
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No