

OLR NO.11 of 2018

IN THE MATTER OF :

COMPANY PAID STAFF WORKING IN THE OFFICE OF THE
OFFICIAL LIQUIDATOR, CHANDIGARH

Present: Mr.Deepankur Sharma, Advocate, with
Mr.O.P. Sharma, Official Liquidator.

This application is filed by the Official Liquidator for seeking permission to pay gratuity to Himanshi Jaitly, Ex-company Paid Staff.

In brief, Himanshi Jaitly was appointed in the office of Official Liquidator on 15.2.2006 as Company Paid Assistant and after rendering her services for about 12 years and 4 days she resigned on 19.2.2018 on her absorption in Government service on compassionate ground. She has made an application dated 17.4.2018 to the Official Liquidator for payment of gratuity and hence, the present application.

It is submitted that this Court vide its order dated 03.3.2017 passed in OLR No.12 of 2016, filed by the similarly situated person namely, Harbans Kaur, constituted a committee comprising of Registrar General (Chairman), Mr.Manish Jain, Advocate and the Official Liquidator (Members) to report the genuineness of claim of gratuity and leave encashment. The order dated 3.3.2017 is reproduced as under: -

“The company paid employees whose names are mentioned in Para 8 be released the salary from the Common Pool Fund Account at the increased rate in salary for the employees who have completed 15 years of

Service at the rate of ₹5000/- and ₹4000/- for CPS having rendered less than 15 years of service. The retirement benefit be given to Ms. Harbans Kaur @ 50 percent of total ₹6,55,750/- on account of gratuity and leave encashment from the Company Pool Fund also as has been chalked out in the report by the Official Liquidator subject to the report of the Committee.

In the meanwhile, a committee comprising of Registrar General (Chairman), Mr.Manish Jain, Advocate and the Official Liquidator (members) is constituted to report the genuineness of the claim of gratuity and leave encashment Ms. Harbans Kaur before the next date of hearing i.e. 05.05.2017.

For remaining order, now to come up on 05.05.2017.”

Pursuant to the aforesaid order, the committee submitted its report dated 01.04.2017 with the opinion that the claim of Harbans Kaur is very genuine.

On the basis of the said report 01.04.2017, this Court on 19.5.2017, while disposing of OLR No.12 of 2016, ordered for payment of gratuity and leave encashment to Harbans Kaur from the Company Pool Fund Account.

The office of the Official Liquidator, Chandigarh has placed on record report of the Committee dated 01.04.2017 on the basis of which the

order for payment of gratuity in the case of Harbans Kaur, Company Paid Staff, has been passed by this Court on 19.5.2017 which is also sought to be passed in the present case.

In the report dated 01.04.2017, given in the case of Harbans Kaur, it is stated that Section 4 of the Payment of Gratuity Act, 1972 [for short 'the Act'] would be applicable in her case being the Company Paid Staff for the payment of gratuity. Section 4(1) of the Act is reproduced as under: -

“Payment of Gratuity:- Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years:-

- (a) on his superannuation, or*
- (b) on his retirement or resignation, or*
- (c) On his death or disablement due to accident or disease.”*

Section 4(1)(b) of the Act deals with the payment of gratuity to an employee on the termination of his/her employment after he/she has rendered continuous service for not less than five years on his/her retirement or resignation. Since Himanshi Jaitely was the Company Paid Assistant and had rendered her services for about 12 years and 4 days as she resigned from the post on 19.2.2018, therefore, she is entitled to the benefit of gratuity.

In view of the above, the present application is hereby allowed and the Official Liquidator is allowed to pay the gratuity to Himanshi Jaitely as per the calculation made under the law.

06.12.2018
Vivek

(RAKESH KUMAR JAIN)
JUDGE