

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 11.01.2019****CWP No.458 of 2019**

The Punjab State Civil Supplies Corporation Ltd. (PUNSUP) & another

...Petitioners

Vs.

The Controlling Authority under the Payment of Gratuity Act, 1972 – cum-
Assistant Labour Commissioner, Ferozepur & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Dilraj Singh Bhinder, Advocate, for the petitioners.

RAJIV NARAIN RAINA, J. (ORAL)

Sunita Rani (2nd respondent) retired on attaining the age of superannuation on 31.05.2013 from the service of PUNSUP. There was a charge-sheet pending against her, which was finalized after retirement on 05.07.2013 in which the charges were dropped. Since she was not paid her gratuity, she made a complaint before the Controlling Authority under the Payment of Gratuity Act, 1972. The Assistant Labour Commissioner, Ferozepur exercising powers of Controlling Authority dismissed the application, as during the pendency of the proceedings PUNSUP paid up an amount of ₹8,34,051/- to the 2nd respondent towards gratuity by cheque dated 24.04.2015. While doing so, the Controlling Authority also declined the request for payment of interest on delayed payment on the ground that gratuity was not withheld by PUNSUP intentionally or unreasonably.

Aggrieved by the order of the Controlling Authority on the point of grant of interest, Sunita Rani carried an appeal to the Appellate Authority. The appeal has been allowed by the impugned order dated 13.08.2018. The Appellate Authority has relied on Section 7 (3A) of the Act to allow the appeal. Section 7 (3A) provides for payment of interest from the date on which the gratuity becomes payable till the date on which it is paid, simple rate of interest which is notified by the Central Government on fixed deposits from time to time. Section 7(3A) of the Act is reproduced hereunder:

“7(3A) 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.”

By virtue of operation of this law, the Appellate Authority has set aside that part of the order of the Controlling Authority which has denied interest on delayed payment and awarded interest at the rate of 10% p.a. with effect from 01.07.2013 till payment by modifying the order of the Controlling Authority. No fault can be attributed to the employee for late payment.

I find no error apparent on the face of record, which may justify interference in proceedings under Article 226 of the Constitution.

Consequently, the present petition is found devoid of merit and is hereby dismissed.

11.01.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>