

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.10786 of 2019 (O&M)

Date of decision: 28.05.2019

**The Punjab Agro Foodgrains Corporation Ltd.
and another.**

.....Petitioners

Versus

Jagtar Singh and others.

....Respondents

CWP No.12307 of 2019

Jagtar Singh

.....Petitioners

Versus

**Appellate Authority-cum-Addl. Labour
Commissioner under the Payment of Gratuity
Act, 1972, Punjab, Chandigarh and others**

....Respondents

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

Present: Mr. Anupam Singla, Advocate for the petitioners in CWP No. 10786 of 2019 and for respondent No.3 in CWP No.12307 of 2019.

Mr. Naveen Batra, Advocate for the petitioner in CWP No.12307 of 2019.

Mr. Y.P. Singla, Advocate for respondent No.4-PLDRC.

B.S. WALIA, J (ORAL)

1. This order shall decide CWP Nos.10786 and 12307 of 2019 filed by The Punjab Agro Foodgrains Corporation Limited and Jagtar Singh-workman, respectively. In CWP No.10786 of 2019, challenge is to order Annexure P-5 dated 05.06.2018 amended on 18.09.2018 as also Annexure P-6 passed by respondent No.3 i.e. Appellate Authority under the Payment of Gratuity Act, 1972-cum-Addl. Labour Commissioner, Punjab

(hereinafter referred to as 'the Appellate Authority'). However, at the time of arguments, learned counsel for the petitioners contended that he confines the relief claimed to seeking quashing of order Annexure P-5 dated 05.06.2018 as amended vide order dated 18.09.2018 only and not qua Annexure P-6. In CWP No.12307 of 2019, the petitioner/workman on the other hand, seeks a writ, order or direction in the nature of Mandamus directing respondent No.2-Controlling Authority to execute order Annexure P-2 dated 05.06.2018 passed by the learned Appellate Authority. For brevity, the facts are being taken from CWP No.10786 of 2019.

2. Brief facts of the case leading to the filing of the writ petition are that respondent No.1-Workman/Jagtar Singh joined service in the Punjab Land Development and Reclamation Corporation Limited, Ludhiana (in short 'the PLDRC)/Respondent No. 4 as Account Assistant on 08.09.1982. Thereafter, vide order Annexure P-1 dated 5.3.2001, the petitioner joined service of the petitioner-Corporation on deputation initially for a period of one year, however, in the 170th meeting of the Board of Directors of the petitioner-Corporation on 25.06.2003, it was resolved that services of 9 employees of PLDRC etc. who were working on deputation including respondent No.1 be absorbed in the petitioner-Corporation in their own present pay scale as being drawn in the petitioner-Corporation. It was further resolved that respondent No.1 and others would not be given any benefit of past service qua seniority, fixation of pay, and designation and their seniority would be fixed at the bottom of their cadre. Thereafter, on 17.07.2003, the petitioner-Corporation passed an order absorbing 9 employees of PLDRC and others in the petitioner-Corporation w.e.f. 25.6.2003 in terms of the resolution passed by it. In pursuance thereto, respondent No.1-Workman submitted an

undertaking Annexure P-3 dated 28.8.2003 that he would deposit the benefits (Gratuity/Earned Leave Encashment and other benefits) drawn by him from his parent department i.e. respondent No.4- PLDRC with the petitioner-Corporation so that the said benefits be paid to him at the time of his retirement or leaving the service of the petitioner-Corporation. Thereafter, respondent No.1-Workman retired from service of the petitioner-Corporation on 30.06.2015 from the post of Executive Grade-I. On retirement, respondent No.1-Workman filed an application before the Controlling Authority under the Payment of Gratuity Act, 1972-cum-Assistant Labour Commissioner, Moga i.e. respondent No.2 claiming gratuity from petitioner No.1 for the entire service rendered by him in the petitioner-Corporation as well as under respondent No.4 i.e. PLDRC. However, vide order Annexure P-4 dated 20.06.2017, respondent No.2 held that respondent No.1-workman was entitled to gratuity only for the period he had rendered service under the petitioner-Corporation.

3. Aggrieved against the said order, respondent No.1-Workman filed an appeal before respondent No.3 i.e. the Appellate Authority to make payment on account of gratuity for the entire period of service rendered by respondent-Workman i.e. in the PLDRC as well as in the petitioner-Corporation along with interest @ 9% per annum with effect from the date it was due till date of actual realization. The appellate authority allowed the appeal filed by the workman and held him entitled to payment of gratuity for the entire period of service including the past service rendered by him under Respondent No.4 before getting deputed and finally absorbed in the petitioner corporation.

4. Notice of motion was issued to respondent No.4 on 17.05.2019 while directing a responsible officer of the petitioner-Corporation as well as respondent No.4 to be present along with the record.

5. Mr. Y.P. Singla, Advocate, puts in appearance on behalf of respondent No.4-Corporation and has stated, on instructions from Mr. Rajesh Singh, Junior Assistant, that till date, no request has been received by it from the petitioner-Corporation to transfer the share of the gratuity payable to the respondent-Workman and in case request is made, the same would be acceded to in accordance with law and the share of gratuity payable by it would be transferred forthwith to the petitioner Corporation.

6. The same satisfies learned counsel for the petitioner, who states that a request would be made to respondent No.4-Corporation to release the payment on account of gratuity payable by respondent No. 4/ Corporation for service rendered by the respondent/workman in their Corporation to it and that in the circumstances, respondent No.4 be directed to release the amount payable by it within a time bound manner and that on receipt of payment from respondent No.4, the petitioner-Corporation would release the claim of respondent-Workman as determined by the learned Appellate Authority within one week by way of demand draft through registered speed post.

7. Learned counsel for respondent No.4, at this stage, states that since no demand was made earlier, therefore, respondent No.4 would be remitting only the payment on account of gratuity amount to the petitioner-Corporation while the liability to make payment of interest on account of delay as ordered by the Appellate Authority be directed to be paid by the petitioner-Corporation only.

8. Learned counsel for the petitioner-Corporation states that in the circumstances, the payment on account of interest for the period as ordered by the Appellate Authority would be borne by the petitioner-Corporation.

9. In the light of the position as noted above, the writ petitions are disposed of. The petitioner-Corporation would make a request in writing to respondent No.4 to release the amount of gratuity dues of the respondent-Workman to it within a period of one week from today. On receipt of request, respondent No.4-Corporation would remit the payment within a period of one week thereafter to the petitioner-Corporation which on receipt of the amount from respondent No.4-Corporation would release the payment on account of the gratuity to the respondent-Workman along with interest as ordered by the learned Appellate Authority within a period of one week thereafter.

May 28, 2019
ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No