

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

[1]

**CWP No.11404 of 2017
Date of Decision : 08.05.2019**

**SENIOR SUPERINTENDENT OF POST OFFICES, DEPARTMENT OF
POST & TELEGRAPHS, ROHTAK DIVISION, ROHTAK
....PETITIONER**

V/S

PREM CHAND AND OTHERS

....RESPONDENTS

[2]

CWP No.11407 of 2017

**SENIOR SUPERINTENDENT OF POST OFFICES, DEPARTMENT OF
POST & TELEGRAPHS, ROHTAK DIVISION, ROHTAK
....PETITIONER**

V/S

DALBIR SINGH AND OTHERS

....RESPONDENTS

[3]

CWP No.11409 of 2017

**SENIOR SUPERINTENDENT OF POST OFFICES, DEPARTMENT OF
POST & TELEGRAPHS, ROHTAK DIVISION, ROHTAK
....PETITIONER**

V/S

JAGDISH AND OTHERS

....RESPONDENTS

[4]

CWP No.11411 of 2017

**THE SUPERINTENDENT OF POST OFFICES, KURUKSHETRA
DIVISION, KURUKSHETRA, HARYANA
....PETITIONER**

V/S

RAJ KUMAR AND OTHERS

....RESPONDENTS

[5]

CWP No.11413 of 2017

**SENIOR SUPERINTENDENT OF POST OFFICES, DEPARTMENT OF
POST & TELEGRAPHS, ROHTAK DIVISION, ROHTAK
....PETITIONER**

V/S

BIJENDER SINGH AND OTHERS

....RESPONDENTS

[6]

CWP No.11570 of 2017

**SENIOR SUPERINTENDENT OF POST OFFICES, DEPARTMENT OF
POST & TELEGRAPHS, ROHTAK DIVISION, ROHTAK**

....PETITIONER

V/S

SITA RAM AND AND OTHERS

....RESPONDENTS

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

Present: Mr. Namit Kumar, Advocate for the petitioner
(in all the petitions).

Mr. R.P. Mehra, Advocate for respondent No.1.

Service upon respondent Nos.2 & 3 *dispensed with*.

B.S. WALIA, J. (ORAL)

[1] CWP Nos.11404, 11407, 11409, 11411, 11413 & 11570 of 2017 have been filed by the Senior Superintendent of Post Offices, Department of Post & Telegraphs, Rohtak Division, Rohtak, praying for the issuance of a writ of Certiorari to quash orders passed by the Controlling Authority as well as the Appellate Authority under 'The Payment of Gratuity Act, 1972', (hereinafter referred to as the Act) whereby the petitioner was directed to release amount due to the respondent-workmen on account of gratuity.

[2] CWP Nos.11404, 11407, 11409 & 11413 of 2017 are qua workmen, who are in service, while CWP Nos.11411 & 11570 of 2017 are cases, where the respondent workmen retired on 31.07.2018 after filing claims before the controlling authority, leading to passing of orders by the Controlling

Authority as well as the Appellate Authority on 29.07.2016 and 14.07.2016 respectively.

[3] Learned counsel for the petitioner contends that the case can be decided on a preliminary submission without going into the merits of the claim as perusal of Section 4(1) of the Act reveals that gratuity is payable to a workman only on termination of his employment after he has rendered continuous service for not less than five years, on his superannuation/ retirement/ resignation/ death or disablement due to accident or disease and that in the light of position noted above, application for payment of gratuity before the happening of any of the events contemplated in Section 4(1) of the Act was premature therefore not maintainable and liable to be dismissed as such on the aforementioned ground alone.

[4] Learned counsel for the respondent-workmen does not controvert the factual position as noted above, but contends that in light of the position as noted above the respondent/workmen are entitled to be granted liberty to approach the Controlling Authority for release of gratuity as per law on their making out a case under Section 4(1) of the Act.

[5] I have considered the submissions of learned counsel for the parties and am of the view that the writ petitions are liable to be allowed as none of the events contemplated in Section 4(1) of the Act entitling an employee to receive gratuity had occurred at the time of moving of applications by the respondent workmen before the controlling authority as they were all in service at said point of time. In the circumstances, the applications for payment of gratuity were premature, and liable to be dismissed as such. Accordingly, the impugned orders passed by the Controlling Authority

the claim on the ground of the same being pre-mature and the impugned orders having been passed in derogation of Section 4(1) of the Act.

[6] Needless to mention, on the happening of any of the events contemplated in Section 4(1) of the Act qua either of the respondent-workmen, the concerned respondent-workman would be entitled to maintain an application under Section 4(1) of the Act before the competent authority for decision with regard to his claim for payment of gratuity, in accordance with law. Needless also to mention, it would be open to the petitioner to raise objections to the claim of the respondent-workman in accordance with law.

[7] Writ petitions ***allowed*** in the aforementioned terms.

(B.S. WALIA)
JUDGE

May 08, 2019
‘Rajneesh’

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