

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

CWP-13320-2017

Date of Decision: 08.08.2022

Mahesh Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chander Shekhar, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Padamkant Dwivedi, Advocate,
for respondent No.5.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, grievance of the petitioner is that as the service rendered by the petitioner, w.e.f. 17.01.1981 to 31.03.1985, has not been taken into account by the respondents for computing the gratuity amount admissible to the petitioner, therefore, the respondents are liable to be directed to grant the said benefit to the petitioner.

Upon notice of motion, the respondents have filed the reply, stating that the petitioner had rendered service for the period in question with respondent No.5-Corporation and no gratuity amount is payable to the petitioner for the service rendered by him, w.e.f. 17.01.1981 to 31.03.1985, keeping in view Section 4 of the Payment of Gratuity Act, 1972, as the said service period of the petitioner is for a period of less than five years before his service was terminated by the Department concerned, hence the

petitioner cannot claim for the grant of said benefit.

Learned counsels appearing on behalf of respondents No.1 to 4 submit that as for the period in question, the petitioner was not working with respondents No.1 to 4, therefore, no benefit of payment of gratuity amount can be extended to the petitioner by the said respondents.

I have heard learned counsels for the parties and have gone through the record with their able assistance.

The claim for the grant of gratuity amount, as being raised in the present petition, can only be granted by the employer, where the employee concerned was working for the period in question. In the present case, it is not disputed that from 17.01.1981 to 31.03.1985, the petitioner was working with respondent No.5-Corporation, and therefore, the liability, if any, is upon respondent No.5- Corporation to pay the said gratuity amount to the petitioner.

In order to adjudge the liability of respondent No.5-Corporation, the provisions of the Payment of Gratuity Act, 1972, are to be considered. Section 4 of the said Act, which deals with payment of the gratuity amount to the employee concerned, clearly states that the benefit of gratuity amount can only be extended to an employee upon termination of his/her services, in case the employee concerned has rendered continuous service for not less than five years with the Department concerned.

In the present case, it is a conceded position that service rendered by the petitioner with respondent No.5-Corporation, prior to termination of his service, was for a period of less than five years. That being so, claim of the petitioner for the grant of gratuity amount upon termination of his services by the Department concerned is not covered

under the Payment of Gratuity Act, 1972, and therefore, the same is rejected.

The present petition stands dismissed.

08.08.2022

Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No