

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

204

CWP No.17197 of 2016 (O&M)
DATE OF DECISION : 22nd APRIL, 2022

Nazir Hussain

.... Petitioner

Versus

**Legal Remembrancer-cum-Director of Prosecution-cum-Appellate
Authority (under the Payment of Gratuity Act, 1972), UT
Chandigarh & others**

.... Respondents

204-A

CWP No.13869 of 2016 (O&M)

**The Punjab Wakf Board, SCO No.1062-63, Sector 22-B, Chandigarh
through its Additional Law Officer, Punjab Wakf Board,
Chandigarh**

.... Petitioner

Versus

**Legal Remembrancer-cum-Director of Prosecution-cum-Appellate
Authority (under the Payment of Gratuity Act, 1972), UT
Chandigarh & others**

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Dinesh Kumar, Advocate
for the petitioner in CWP No.17197 of 2016 &
for respondent No.3 in CWP No.13869 of 2016.

Mr. Deepak Kumar Jain, Advocate and
Mr. Akshay Jain, Advocate
for the petitioner in CWP No.13869 of 2016 &
for respondent No.3 in CWP No.17197 of 2016.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

1. This order shall dispose of the above said two writ petitions
because of similar aspect being involved in the same.

2. The workman-Nazir Hussain has filed the writ petition No.17197 of 2016 under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 15.03.2016, whereas petitioner-Punjab Wakf Board, UT, Chandigarh has filed the writ petition No.13869 of 2016 praying for issuance of writ in the nature of certiorari for quashing the order dated 04.09.2013 passed by the controlling authority and also challenged the aforesaid order dated 15.03.2016, being illegal and against the provisions of payment of Gratuity Act, 1972; along with certain other prayers.

3. So far as the writ petition No.13869 of 2016 filed by the Punjab Wakf Board, is concerned, it is not even in dispute that the appeal before the appellate authority was filed beyond 120 days, which was the maximum period within which the appeal could have been entertained by the appellate authority. Under the statutory provisions, the appellate authority does not have even the jurisdiction to condone the delay. Hence, this court finds no illegality with the order passed by the appellate authority, dismissing the appeal filed by the Punjab Wakf Board, on the ground of delay. The said order is upheld. The CWP No.13869 of 2016 stands disposed off accordingly.

4. So far as the writ petition No.17197 of 2016 filed by the employee, is concerned, learned counsel for the petitioner-employee has submitted that he is satisfied with the amount of the gratuity, *per se*, however, the interest upon the delayed payment of the gratuity has wrongly been declined to him. The counsel has referred to the provisions

contained in Section 7 Clause(3A) of the Payment of Gratuity Act, 1972, which reads as under:

XXX.... XXX.... XXX....

Section 7(3A) in The Payment of Gratuity Act, 1972

(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.

XXX.... XXX.... XXX....

5. A perusal of the above Section shows that in case of delayed payment the employer is bound to pay interest at the rate as prescribed by the Central Government for long term deposits. Although, there is nothing on record to establish as to what was the long term rate of interest fixed by the Government at the relevant time, however, even as per the common knowledge the interest at the rate of 6% per annum, on average, would be justified. Hence, the petitioner is held entitled to the interest at the rate of 6% from the date the gratuity became due till it is actually paid to the petitioner-workman.

6. Accordingly the present petition is disposed of with a direction to the respondents-employer to pay the interest at the rate of 6% per annum on the amount of gratuity granted by the controlling authority w.e.f. the date the petitioner retired from service till the amount is actually paid to him. The respondent-employer is directed to make the aforesaid payment; along with interest thereon; within a period of two months from the date of receipt of certified copy of the order.

22nd APRIL, 2022
'raj'

(RAJBIR SEHRAWAT)
JUDGE

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