

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

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CWP-22465-2022

Date of Decision :28.09.2022

Jagmal Singh Chauhan and others**...Petitioners**

Versus

State of Haryana and others**...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Anurag Goyal, Advocate for the petitioners.

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Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the challenge is to the information dated 26.12.2018 (Annexure P/25) supplied by the respondent-department under the Right to Information Act, 2005 (in short, 'RTI', Act) and to the letter dated 11.05.2018 (Annexure P/27) and decisions dated 30.07.2018 (Annexure P/29) and 10.09.2018 (Annexure P/35) as per which, the amendment effected to the Payment of Gratuity Act, 1972 so as to increase the ceiling of gratuity from 10 lacs to 20 lacs would apply upon the employees of the Haryana State Seed Certification Agency only from the date of notification issued by the Union Government and not from the date prior to the said amendment as extended to the Government employees of the respondent-State of Haryana.

Learned counsel for the petitioners argues that the petitioners were given gratuity on the same patterns as was given to the employees of the Government of Haryana hence, the employees of the respondent-agency

are to be treated in the same manner and as employees of the Government of Haryana, who have been granted the benefit of extended ceiling of gratuity from 10 lacs to 20 lacs from 01.01.2016 instead of the date of amendment to the Payment of Gratuity Act, 1972 i.e. 20.03.2018. Learned counsel for the petitioners submit that the petitioners have become entitled for the grant of increased ceiling of gratuity w.e.f. 01.01.2016 and the employees, who retired starting from 01.01.2016 are also entitled for higher ceiling of the gratuity.

I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

Payment of Gratuity Act, 1972 is a Central Act. The amendment to the said Act can only be done by the Union Government. In the present case, it is conceded position that this amendment to the Payment of Gratuity Act, 1972 has been done by the Central Government so as to increase the maximum ceiling of gratuity from 10 lacs to 20 lacs in March, 2018. That being so, whether the petitioners can claim the benefit of the said modification/amendment w.e.f. 01.01.2016, which is prior to date, the said amendment was effected, as extended by the Government of Haryana to its employees is to be seen.

Learned counsel for the petitioners has conceded that the petitioners were employees of the respondent-agency, which is different than the Administrative department of the Government of Haryana. It is also conceded position that any amendment of the Government of Haryana, which is *ipso facto* applicable upon the administrative department of the Government of Haryana, is not applicable upon respondent No.2-agency, till the same is adopted by the competent authority of the respondent-agency.

In the present case, decision of the Government of Haryana to make applicable the amendment to the Payment of Gratuity Act, 1972, w.e.f 01.01.2016, has not been adopted by the agency concerned. In the absence of any such decision by the respondent No.2-agency, benefit of extended ceiling of gratuity from 10 lacs to 20 lacs as effected in the Payment of Gratuity Act, 1972, will only be applicable from the date of amendment and not from the date prior thereto.

Even otherwise, the rules of the Government of Haryana regarding the payment of gratuity to the Government employees will not be applicable upon the employees of respondent-agency as no exemption has been granted by the competent authority to the respondent-agency granting exemption under the Payment of Gratuity Act, 1972. Nothing has been placed on record to show that any exemption has been granted to the respondent-agency from the provisions of the Payment of Gratuity Act, 1972. In the absence of any such exemption, Payment of Gratuity Act, 1972 is applicable upon the employees of the respondent-agency including the petitioners. Hence, once the amendment in the Payment of Gratuity Act, 1972 was carried out on 20.03.2018 extending the ceiling of gratuity from 10 lacs to 20 lacs, the said date will also be applicable upon the petitioners.

Further, similar question of law has arisen before this Court in **CWP-5393-2018** titled as **Kuldip Singh vs. State of Punjab** decided on 16.11.2019, wherein also the same relief was being asked for, keeping in view the decision of the Government of Punjab for implementing the amendment to the Payment of Gratuity Act, 1972, which was actually carried out by the Union of India on 24.05.2010 to be implemented w.e.f. 01.01.2006 and this Court had declined the said benefit to the petitioners

therein. Hence, the claim of the petitioners for the grant of benefit of enhanced ceiling of gratuity from 10 lacs to 20 lacs as per the amendment dated 20.03.2018 w.e.f. 01.01.2016 is declined and the present writ petition is accordingly dismissed.

September 28, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

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