

CWP-22574-2023
Date of decision: 07.10.2023

V/s

State of Punjab and others *...Respondents*

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Ms. Kriteka Sheokand, Advocate
for the petitioners.

DEEPAK MANCHANDA J. (ORAL)

The instant writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to release the pending amount of gratuity along with 12% interest of the petitioners as per the Amendment in the Payment of Gratuity Act, 1972 whereas in pursuance of the Amendment, Sub Section (3) of Section 4 of the Payment of Gratuity Act, 1972 has been amended to substitute the words “ten lakh rupees” with the words “such amount as may be notified by the Central Government from time to time” and further directing the respondents to implement the Ministry of Labour and Employment (M/oL&E)’s Notification No. S.O.1419(E) dated 29.03.2018 has indicated that the Central Government hereby appoints the 29th Day of March, 2018 as the date on which the said Act shall come into force. Further, M/o L&E vide Notification No.1420(E) dated 29.03.2018 has notified that the Central Government hereby specifies that the amount of gratuity payable to an employee under the Act shall not exceed twenty lakh rupees.

Learned counsel for the petitioners contends that the petitioners have retired as Tubewell Operators and Electricians from the office of respondent No.2 and are aggrieved by the action of the respondents in not releasing the pending amount of gratuity as per the ceiling limit extended from Rs.10,00,000/- to Rs.20,00,000/- and they all retired after the notification dated 29.08.2018. The petitioners were appointed as Tubewell Operators and Electricians etc. between 1982 and 1986 to run the tubewells in various villages all over the State of Punjab for irrigation purpose. On attaining the age of superannuation, the department paid the petitioners gratuity amount upto Rs.10,00,000/- but they are entitled for gratuity after the amendment in the payment of Gratuity Act as the extended ceiling limit which was enhanced from Rs.10,00,000/- to Rs.20,00,000/- and petitioners are fully eligible for the same. The respondents have released the gratuity of the petitioners as per the earlier provisions of the Act and they have paid an amount of upto Rs.10,00,000/- at the time of retirement but as per the Amendment in the Payment of Gratuity Act, 1972, whereas in pursuance of the Amendment, Sub Section (3) of Section 4 of the Payment of Gratuity Act, 1972 has been amended to substitute the words “ten lakh rupees” with the words “such amount as may be notified by the Central Government from time to time.” The petitioners have retired after the Publication of the Notification dated 29.03.2018 by the Central Government in the official Gazette and are also entitled to payment of the balance amount of gratuity with interest on the said amount. A similar case filed by a similar employee before the Labour Court for the release of pending gratuity on account of an Amended Notification dated 29.03.2018, which was allowed by this Court on 27.02.2023. Learned counsel further contends that the petitioners have also served a legal notice dated 10.08.2023 (Annexure P-6) to respondents, which has not been taken into consideration till date and the

petitioners would be satisfied if necessary directions are given for deciding the legal notice in a time bound manner.

Notice of motion.

At this stage, on asking of the Court, Mr. Arun Gupta, AAG Punjab, who is present in the Court, accepts notice on behalf of the respondents No.1 & 5 and submits that respondent No.2 is the competent authority to decide the legal notice.

In view of the pleadings in the present petition, without expressing any opinion on the merits of the case or the claim being made by the petitioner in the legal notice dated 10.08.2023 (Annexure P-6), respondent No.2 is directed to decide the aforesaid legal notice by passing a speaking order within a period of 8 weeks from the date of receipt of certified copy of this order with a further direction that if the petitioner is found to be entitled to the claim mentioned in the abovesaid legal notice, necessary disbursement of funds shall be made to them within a period of 8 weeks thereafter.

The petition stands disposed of.

(DEEPAK MANCHANDA)
JUDGE

07.10.2023
Sapna

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