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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 22nd May, 2023*

4

+ W.P.(C) 6403/2023

IRFAN ALI & ORS.

..... Petitioners

Through: Mr. Varun Mudgil, Mr. Rakesh Kumar, Mr. Vijay Kumar, Mr. Mohit Mudgal and Mr. Sandeep, Advocates

versus

URDU ACADEMY & ORS.

..... Respondents

Through: Mrs. Avnish Ahlawat, Standing Counsel, GNCTD with Mr. N.K. Singh, Ms. Palak Rohmetra, Ms. Laavanya Kaushik and Ms. Aliza Alam, Advocates for Respondents.

5

+ W.P.(C) 6503/2023

JASKIRAN KAUR & ANR.

..... Petitioners

Through: Mr. Varun Mudgil, Mr. Rakesh Kumar, Mr. Vijay Kumar, Mr. Mohit Mudgal and Mr. Sandeep, Advocates

versus

PUNJABI ACADEMY & ORS.

..... Respondents

Through: Mrs. Avnish Ahlawat, Standing Counsel, GNCTD with Mr. N.K. Singh, Ms. Palak Rohmetra, Ms. Laavanya Kaushik and Ms. Aliza Alam, Advocates for Respondents.

Mr. Tushar Sannu, Standing Counsel with Mr. Azad Bansala, Advocate for MCD.

Mr. Naushad Ahmed Khan, Advocate for Punjabi Academy with Mr. V.K. Mogia, Secretary, Punjabi Academy.

96

+ W.P.(C) 9797/2021

SUMAN BHALLA & ORS.

..... Petitioners

Through: Mr. Varun Mudgil, Mr. Rakesh

Kumar, Mr. Vijay Kumar, Mr. Mohit
Mudgal and Mr. Sandeep, Advocates

versus

GNCT OF DELHI & ORS. Respondents
Through: Mrs. Avnish Ahlawat, Standing
Counsel, GNCTD with Mr. N.K. Singh, Ms.
Palak Rohmetra, Ms. Laavanya Kaushik and
Ms. Aliza Alam, Advocates for
Respondents.
Mr. Naushad Ahmed Khan, Advocate for
Punjabi Academy with Mr. V.K. Mogia,
Secretary, Punjabi Academy.
Mr. Yeeshu Jain, Additional Standing
Counsel with Ms. Jyoti Singh and Ms.
Manisha, Advocates for DoE.

97

+ W.P.(C) 9931/2021 & CM APPL. 49119/2022

HAFIZA IMRANA AND ORS Petitioners
Through: Mr. Varun Mudgil, Mr. Rakesh
Kumar, Mr. Vijay Kumar, Mr. Mohit
Mudgal and Mr. Sandeep, Advocates

versus

GNCT OF DELHI & ORS. Respondents
Through: Mrs. Avnish Ahlawat, Standing
Counsel, GNCTD with Mr. N.K. Singh, Ms.
Palak Rohmetra, Ms. Laavanya Kaushik and
Ms. Aliza Alam, Advocates for
Respondents.
Mr. Naushad Ahmed Khan, Advocate for
Punjabi Academy with Mr. V.K. Mogia,
Secretary, Punjabi Academy.
Mr. Yeeshu Jain, Additional Standing
Counsel with Ms. Jyoti Singh and Ms.
Manisha, Advocates for DoE.

98

+ W.P.(C) 12641/2021

KAISER SULTANA Petitioner
Through: Mr. Varun Mudgil, Mr. Rakesh

Kumar, Mr. Vijay Kumar, Mr. Mohit
Mudgal and Mr. Sandeep, Advocates

versus

GNCT OF DELHI & ORS. Respondents
Through: Mrs. Avnish Ahlawat, Standing
Counsel, GNCTD with Mr. N.K. Singh, Ms.
Palak Rohmetra, Ms. Laavanya Kaushik and
Ms. Aliza Alam, Advocates for
Respondents.
Mr. Naushad Ahmed Khan, Advocate for
Punjabi Academy with Mr. V.K. Mogia,
Secretary, Punjabi Academy.

99

+ W.P.(C) 12657/2021

SAEED UDDIN Petitioner
Through: Mr. Varun Mudgil, Mr. Rakesh
Kumar, Mr. Vijay Kumar, Mr. Mohit
Mudgal and Mr. Sandeep, Advocates

versus

GNCT OF DELHI & ORS. Respondents
Through: Mrs. Avnish Ahlawat, Standing
Counsel, GNCTD with Mr. N.K. Singh, Ms.
Palak Rohmetra, Ms. Laavanya Kaushik and
Ms. Aliza Alam, Advocates for
Respondents.
Mr. Naushad Ahmed Khan, Advocate for
Punjabi Academy with Mr. V.K. Mogia,
Secretary, Punjabi Academy.

100

+ W.P.(C) 13590/2021

JASVINDER KAUR & ORS. Petitioners
Through: Mr. Varun Mudgil, Mr. Rakesh
Kumar, Mr. Vijay Kumar, Mr. Mohit
Mudgal and Mr. Sandeep, Advocates

versus

GNCTD & ORS.

..... Respondent

Through: Mrs. Avnish Ahlawat, Standing Counsel, GNCTD with Mr. N.K. Singh, Ms. Palak Rohmetra, Ms. Laavanya Kaushik and Ms. Aliza Alam, Advocates for Respondents.

Mr. Naushad Ahmed Khan, Advocate for Punjabi Academy with Mr. V.K. Mogia, Secretary, Punjabi Academy.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

C.M. APPL. 25219/2023 (exemption) In W.P.(C) 6403/2023

C.M. APPL. 25575/2023 (exemption) In W.P.(C) 6503/2023

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

W.P.(C) 6403/2023, W.P.(C) 6503/2023, W.P.(C) 9797/2021, W.P.(C) 9931/2021, W.P.(C) 12641/2021, W.P.(C) 12657/2021 and W.P.(C) 13590/2021

3. Present writ petitions have been filed by the Petitioners seeking directions to the Respondents to implement the Payment of Gratuity (Amendment) Act, 2009 (No. 47 of 2009) w.e.f. 03.04.1997 and release the amounts towards payment of Gratuity to the Petitioners from the date of their respective retirements.
4. Facts are in a narrow compass. Petitioners in the aforesaid writ petitions were appointed as full time TGTs/PGTs (Punjabi) or TGTs/PGTs (Urdu) or Assistant Teachers respectively, in the Punjabi Academy or Urdu Academy, as the case may be and after serving for several years retired on attaining the age of 60 years. Since the appointments of the Petitioners were on contract basis, they were not given the benefit of Gratuity at the time of their leaving the service.

5. On 31.12.2009, amendment was made in the definition of the word 'employee' as defined in Section 2(e) of the Payment of Gratuity Act, 1972 (hereinafter referred to as the 'Act') by amending Act No. 47 of 2009 published on 31.12.2009 with retrospective effect from 03.04.1997. The impact of the amendment was that Teachers are now entitled to claim Gratuity under the said Act from their respective employers.

6. The grievance of the Petitioners is that after the amendment to the Act in 2009 it is no longer open to the Respondents to deny the benefits of Gratuity from 03.04.1997 to the Petitioners who were employed as Teachers in the respective Academies and deputed to different Schools for teaching Punjabi and Urdu. It is further submitted that this Court in *Janardan Sharma v. GNCT of Delhi Through It's Chief Secretary & Ors., 2021 SCC OnLine Del 3895* has clearly held that the Act does not draw a distinction between a full-time or a part-time employee or even appointments on ad hoc basis etc. and therefore even the nature of the appointment of the Petitioners on contract basis is no longer an impediment in their way for grant of Gratuity benefits.

7. I have heard the learned counsels for the parties.

8. Indisputably, the Petitioners are covered under the amended definition of the word 'employee' under Section 2(e) of the Act as amended by the Amending Act of 2009. In *Janardan Sharma (supra)* this Court has obliterated the distinction between Teachers based on the nature of their employment viz. full-time/part-time/ad hoc/contract etc. as the Act itself does not contemplate such a distinction for grant of Gratuity. The judgment was followed by another Co-ordinate Bench of this Court in a batch of petitions being *W.P. (C) 13761/2022 and connected matters*, titled *Anuradha Seem and Others v.*

Directorate of Education & Anr. decided on 17.11.2022 and the Respondents were directed to extend the benefits of the decision to the Petitioners therein. Therefore, in my view, Petitioners are right in their submission that their cases are squarely covered by the aforementioned judgments where the issue stands crystallized and it is no longer open to the Respondents to deny Gratuity to them.

9. Ms. Avnish Ahlawat, learned Standing Counsel appearing on behalf of Respondents No.1 and 2 does not dispute the fact that case of the Petitioners in each of the writ petitions is covered by the judgments of this Court in **Janardan Sharma (supra)** and **Anuradha Seem (supra)**, on all four corners. She, however, points out that a large number of employees are now entitled for grant of Gratuity and the matter is under active consideration for release of the amounts. She further submits that release of Gratuity entails calculations of the amounts payable, which in turn involves reckoning of various factors such as number of years of service, calculation of fraction of each year of service rendered etc., in accordance with the provisions of the Act and is a time consuming exercise. It is therefore prayed that at least a period of eight weeks be given to the Respondents to calculate and disburse the arrears of Gratuity to the Petitioners, in accordance with the Act.

10. In view of the stand taken by the Respondents, writ petitions are allowed with directions to the Respondents to calculate and release the amounts payable to the Petitioners towards Gratuity, in accordance with the provisions of the Act, as the cases of the Petitioners are squarely covered by the judgments of this Court in **Janardan Sharma (supra)** and **Anuradha Seem (supra)**.

11. Assurance of Ms. Ahlawat that the entire exercise shall be carried out and completed within a period of eight weeks from today

is taken on record. Calculations of the amounts disbursed shall also be furnished to the Petitioners and in case of any surviving grievances, Petitioners would be at liberty to take recourse to appropriate remedies, in accordance with law.

12. Writ petitions stand disposed of along with pending application being CM APPL. 49119/2022 in W.P.(C) 9931/2021.

MAY 22, 2023/kks/shivam

JYOTI SINGH, J

