

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CWP-15132-1996

Reserved on : April 18, 2024

Pronounced on : April 24, 2024

PUNJAB STATE ELECTRICITY BOARD, PATIALA. Petitioner
Versus

ADDITIONAL LABOUR COMMISSIONER -CUM- APPEALLATE
AUTHORITY, PUNJAB & OTHERS Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Diksha Sharma , Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Respondent No.3 already proceeded against *ex parte*
vide order dated 16.12.1996.

NAMIT KUMAR, J. (Oral)

1. The present petition has been filed by the petitioner under Articles 226/227 of the Constitution of India seeking writ in the nature of *certiorari* for quashing the impugned orders dated 05.12.1995 and 30.07.1996 (Annexures P-1 & P-2) and for issuance of writ in the nature of *mandamus* directing the respondents to not make recovery of additional amount under Payment of Gratuity Act, 1972.

2. The brief facts leading to the filing of the present petition, as have been pleaded in the writ petition, are that Respondent No.3 - Sarup Singh, who joined on the post of 'Turner' as regular employee in the Punjab State Electricity Board (for short 'the Board') on 23.03.1965, had retired as such on 31.07.1993 and after his retirement, all the retiral benefits including his gratuity to the tune of Rs.27,360/-, as admissible under the Punjab Civil Services Rules and MSR, was

duly paid to him. Thereafter, Respondent No.3 - Sarup Singh filed an application under the Payment of Gratuity Act, 1972 (for short 'the Act of 1972') before Respondent No.2 - the Controlling Authority – cum – Assistant Labour Commissioner, Rajpura Cantt., Patiala, claiming that he is entitled for more gratuity to the tune of Rs.72,003/- under the Act, praying that the petitioner be directed to pay the remaining amount of Rs.44,643/- alongwith interest of Rs.8,035/-, which was allowed by the said authority vide impugned order dated 05.12.1995 (Annexure P-1) with a direction to pay additional amount of Rs.22,640/- to him as remaining gratuity, which is maximum permissible amount, and aggrieved against the said order, the petitioner-Board preferred an appeal before Respondent No.1 – the Appellate Authority -cum- Additional Labour Commissioner, Punjab, and the same was dismissed vide impugned order dated 30.07.1996 (Annexure P-2), by upholding the impugned order dated 05.12.1995 (Annexure P-1) passed by Respondent No.2. Hence, this petition.

3. The present case was admitted on 26.09.1996 and the operation of impugned order was stayed. On subsequent date i.e. 16.12.1996, Respondent No.3 failed to appear in spite of service and he was proceeded against *ex parte* and the aforesaid order dated 26.09.1996 was made absolute.

4. Learned counsel for the petitioner contends that Respondent No.3 – Sarup Singh has already been paid the entitled amount of gratuity in accordance with the CSR/ MSR Rules and, therefore, he cannot derive double benefit, as has been claimed under the Act of 1972.

5. I have heard learned counsel for the parties and perused the record.

6. The controversy involved in the present *lis* is whether the petitioner is entitled to the gratuity under the Act of 1972 or is entitled to gratuity under the

Punjab Civil Services Rules.

7. Learned counsel for the parties are *ad idem* that in a batch of cross writ petitions filed by the employees and the Board, a Division Bench of this Court had an occasion to deal with the following questions:-

- (i) *As to whether the Board employees are entitled to claim 'Gratuity' under the Payment of Gratuity Act, 1972 Act ?*
- (ii) *As to whether the exemption granted vide notification dated 08.01.2004 is valid in law ?*

8. The Division Bench vide its Judgement dated February 27, 2008 rendered in CWP No.5126 of 2004 titled as '**Balwant Singh and others versus State of Punjab**', **SCT 181 : 2008 (3) RSJ 391** and another has held that the petitioner-Board has been granted exemption from the operation of the Act of 1972, vide Government Notification dated 08.01.2004 and in view thereof, the Board-employees are not entitled to claim Gratuity under the Act of 1972. It has further been held that the composite benefits are admissible to the Board employees under the Punjab Civil Service Rules, such as, pension, Gratuity and other retiral dues and the same are in no way less favourable to them as compared to the Gratuity payable under the Act of 1972.

9. For the reasons assigned by this Court in **Balwant Singh's case (supra)**, the impugned orders passed by the Controlling Authority as well as the Appellate Authority under the Act of 1972 directing payment of Gratuity as per the provisions of the Act of 1972, thus, cannot sustain.

10. The writ petition is accordingly allowed and the impugned orders dated 05.12.1995 and 30.07.1996 (Annexures P-1 & P-2, respectively) are hereby set aside.

April 24, 2024
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(NAMIT KUMAR)
JUDGE

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