

2024:PHHC:142205



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

202

CWP-9199-2022

Date of Decision : 29.10.2024

MANAGING DIRECTOR, M/S HARYANA TOURISM
CORPORATION LTD. AND ANR

.... PETITIONERS

V/S

HARBANS LAL AND ORS

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Padam Kant Dwivedi, Advocate
for the petitioners.

Mr. Bharat Bhushan Sharma, Advocate
for respondent No.1.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of orders passed by authorities under the Payment of Gratuity Act, 1972 (for short '1972 Act') whereby they have been directed to pay a sum of Rs.5,33,654/- towards gratuity along with interest @ 12% per annum.

2. The petitioners claim that the respondent-workman was dismissed from service, thus, he is not entitled to gratuity. The impugned order was passed *exparte* and application seeking recalling of *exparte* order was dismissed on the ground that notice was sent but petitioner opted to remain absent. The appellate authority has dismissed appeal on the ground that *exparte* order is valid.

3. Mr. Dwivedi submits that impugned order is *exparte*, thus, it may be set aside and the matter may be remanded back to Controlling

2024:PHHC:142205



Authority to pass a fresh order after considering submissions of both sides.

4. Mr. Bharat Bhushan Sharma submits that the workman is entitled to gratuity despite his dismissal from service. Section 4(6) of 1972 Act is applicable in prescribed facts and circumstances. The facts and circumstances prescribed in Section 4(6) are not applicable to instant case.

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

6. On being asked, Mr. Sharma agrees for the remand of matter to controlling authority, however, he submits that authority may be directed to pass order in a time bound manner.

7. Considering the submissions of both sides, the impugned orders are hereby set aside and the matter is remanded back to Controlling Authority to pass a fresh order after granting opportunity of hearing to both sides. The needful shall be done within two months from today. At the first instance, the parties shall appear before the controlling authority on 11.11.2024.

8. Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

29.10.2024

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Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No