



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

CWP No.10699 of 2023(O&M)

Date of Decision: 18.10.2024

**The Punjab State Cooperative Supply and Marketing Federation
Limited**

....Petitioner

vs.

Appellate Authority and others

....Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Vikas Singh, Advocate and
Ms. Anamika Sheoran, Advocate
for the petitioner

Mr. Shiv Kumar, respondent No. 3
in person

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 03.06.2019 (Annexure P-5) passed by Controlling Authority and order dated 25.03.2022 (Annexure P-8) passed by Appellate Authority under the Payment of Gratuity Act, 1972 (in short "1972 Act").

2. The petitioner is a Co-operative Society which is controlled by State Government. It has made its own Rules and Regulations called as The Punjab State Co-operative Supply and Marketing Federation Employees (Common Cadre) Rules, 1990 (in short "1990 Rules"), governing service of



its employees. As per Rule 4.6 of 1990 Rules, an employee is entitled to gratuity of an amount equal to one month's wages subject to maximum 15 times of last drawn wages. The aforesaid Rules have been amended from time to time. As per amendment carried out in 2009 and 2011, ceiling of gratuity is Rs. 10,00,000/- and as per amendment carried out in 2016, gratuity would be paid in terms of 1972 Act.

3. The respondent No. 3 joined service of the petitioner on 10.12.1980. Disciplinary proceedings came to be initiated against him on 03.12.2014 and concluded on 25.02.2019. He attained age of superannuation on 31.07.2015. He was granted extension till 31.07.2017. The petitioner on account of pending disciplinary proceedings did not release gratuity.

The respondent preferred an application before Controlling Authority under 1972 Act seeking release of gratuity. The said authority vide order dated 03.06.2019 directed the petitioner to pay a sum of Rs.39,245/- towards balance amount because petitioner before the said date had already paid a sum of Rs. 10,00,000/- towards gratuity. In other words, the Controlling Authority determined amount of gratuity Rs. 10,39,245/-. The said authority directed the petitioner to pay interest @ 10% per annum from the date of superannuation to date of payment of gratuity. The petitioner unsuccessfully preferred appeal before Appellate Authority. The orders passed by Controlling Authority and Appellate Authority have led to filing of instant petition before this Court.

4. Mr. Vikas Singh, Advocate submits that as per amendments of 2009 and 2011 carried out in 1990 Rules, the maximum amount of gratuity could be Rs.10,00,000/-. The employees of State Government are also



entitled to maximum gratuity of Rs. 10,00,000/-. Similarly, under 1972 Act, ceiling is Rs. 10,00,000/- Accordingly, Controlling Authority has wrongly determined gratuity Rs. 10,39,245/-. The respondent was relieved on 31.07.2017 and gratuity was withheld on account of pending disciplinary proceedings. The respondent was not exonerated whereas he was subject to punishment of 'Censure' which is a minor punishment. As respondent was subject to punishment, though minor, he was not entitled to interest on delayed payment of gratuity. There was no lapse on the part of petitioner. It was act and conduct of respondent which led to delayed payment of gratuity.

5. Per contra, Mr. Shiv Kumar, respondent No. 3 in person, submits that he does not dispute the fact that as per 1972 Act and amendments carried out in 2009 as well as 2011 in 1990 Rules, ceiling of gratuity is Rs. 10,00,000/-, however, he submits that as per agreement executed between the parties, he is entitled to gratuity as determined by Controlling Authority. He is also entitled to interest in terms of provisions of 1972 Act.

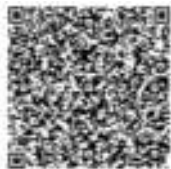
6. On being confronted with the fact that there is no provision of interest in 1990 Rules and he has been granted interest under 1972 Act, thus, amount of gratuity could not be determined under 1990 Rules, he concedes that ceiling of Rs. 10,00,000/- as provided under 1972 Act may be made applicable.

7. I have heard counsel for the petitioner and respondent No. 3 in person and have gone through the record with their able assistance.



8. In view of aforestated facts, legal position and statement of both sides, it is concluded that respondent was entitled to gratuity of Rs. 10,00,000/- which already stands paid. The payment was made in 2019 and it was delayed on account of pending disciplinary proceedings. As per Punjab Civil Services Rules, payment can be withheld in case disciplinary proceedings are pending. As per Section 4(6) of 1972 Act, an employee may be deprived from gratuity to the extent of loss or damage caused by him to the property belonging to the employer. He may also be deprived from gratuity if he has been terminated for his riotous or disorderly conduct or any other act of violence or if his services have been terminated for any act which constitutes an offence involving moral turpitude.

9. The respondent became entitled to gratuity on the date he was relieved i.e. 31.07.2017. The employer was liable to make payment within 30 days from the date of relieving. The respondent was neither terminated nor found involved in riotous or disorderly conduct or any other act of violence. He was subjected to minor punishment of 'Censure' in 2019. Interest is compensatory in nature. Section 7(3A) of 1972 Act read with Notification issued therein provides that in case of delayed payment of gratuity, an employees would be entitled to interest @ 10% per annum. The Controlling Authority has wrongly granted interest from the date of superannuation. The respondent attained age of superannuation on 31.07.2015 whereas he was actually relieved on 31.07.2017 because he was granted extension of two years. The gratuity could not be paid to him during the period of extension. Thus, there was no question of payment of interest



for the said period. The respondent is entitled to interest @ 10% per annum from the expiry of 30 days from 31.07.2017. Accordingly, it is hereby held that petitioner is liable to pay interest @ 10% per annum from 01.09.2017 to date of payment i.e. 26.03.2019.

- 10. Petition stands disposed of in the above terms.
- 11. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

18.10.2024
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	