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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1)

CWP-4823-2013 (O&M)
Date of Decision:09.04.2024

JASWANT SINGH NARWAL AND ORS Petitioners

Versus

UNDER SECRETARY AND ORS Respondents

2)

CWP-22641-2016 (O&M)

GOPAL KRISHAN & ORSPetitioners

Versus

THE SECRETARY & ORSRespondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. P.K. Goklaney, Advocate and
Mr. Ashish Goklaney, Advocate
for the petitioner(s) in CWP-4823-2013 & CWP-
22641-2016.

Mr. Amit Jhanji, Senior Standing Counsel and
Ms. Sukhmani Patwalia, Advocate
for the U.T.Chandigarh.

Mr. R.S. Cheema, Advocate
for respondents No.3 in CWP-22641-2016 and
respondent No.4 in CWP-4823-2013.

Mr. Luvraj Dhindsa, Advocate
for respondent No.6 in CWP-22641-2016.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order CWP-4823-2013 and CWP-22641-
2016 are disposed of since issue involved in both the petitions and prayer

sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-4823-2013.

2. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking direction to respondents to grant them gratuity in terms of Payment of Gratuity Act, 1972.

3. The petitioners are working with Privately Managed Government Aided Schools. The petitioners are claiming that in view of different notifications, instructions and circulars issued by U.T. Administration and State of Punjab, they are eligible to gratuity payable under Payment of Gratuity Act, 1972.

4. Mr. P.K. Goklaney, Advocate submits that respondent-U.T. in its reply has categorically admitted that U.T. is following notifications, instructions and circulars issued by State of Punjab with respect to pay scale and other benefits payable to teaching and non-teaching staff of Privately Managed Government Aided Schools. The staff working in Privately Managed Government Aided Schools in State of Punjab is getting gratuity whereas respondent is not extending said benefits to the petitioners.

5. Mr. Amit Jhanji, Senior Standing Counsel submits that U.T. Administration has issued order dated 17.10.1969 read with communication of January' 1970 whereby it has been provided that teaching staff of Privately Managed Government Aided Schools would be entitled to contributory provident fund, pension and insurance. The petitioners are not entitled to gratuity in terms of said order.

6. From the perusal of affidavit of Director Public Instruction (Schools) Chandigarh Administration, it comes out that U.T. has decided

that appointments in Privately Managed Government Aided Schools would be made strictly in accordance with notifications issued in this regard. It has been further averred that U.T. has adopted rules, guidelines, instructions and notifications issued by State of Punjab. The employees working in Government Aided Schools located at State of Punjab are getting gratuity. The Ministry of Home Affairs, Union of India has issued notification dated 23.05.2018 whereby Punjab Privately Managed Recognized Schools Employees (Security of Service) Act, 1979 and Punjab Privately Managed Recognized Schools Employees (Security of Service) Amendment Act, 2013 have been extended to Union Territory of Chandigarh. The Union of India has framed 'Union Territories Government Aided Schools Teachers Contributory Provident Fund-cum-Insurance-cum-Pension Rules, 1965 (hereinafter '1965 Rules'). Section IV of said Rules provides for gratuity, pension and death gratuity. Rule 19 of 1965 Rules deals with rate of gratuity.

7. Learned counsels for the parties concede that U.T. Administration has not adverted with different rules/notifications while adverting with gratuity payable to employees working with Privately Managed Government Aided Schools.

8. This Court with the consent of both sides finds it appropriate to direct Secretary, Department of Education, Chandigarh Administration, Mini Secretariat, Sector 9, Chandigarh to decide claim of the petitioners in accordance with law. The Secretary, before passing order, shall consider notification dated 23.05.2018 issued by Ministry of Home Affairs, 1965 Rules framed by Government of India as well as different instructions and communications whereby respondent time to

time has opined or accepted that all the rules, regulations and instructions issued by State of Punjab with respect to employees of Privately Managed Government Aided Schools would be applicable to Schools/Colleges located within jurisdiction of U.T. Administration. The needful shall be done within 4 weeks from the date of filing detailed representation by the petitioners.

9. Disposed of in the above terms.
10. Pending misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

09.04.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>