



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

CWP No.22825 of 2019(O&M)

Date of Decision:06.08.2024

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

....Petitioners

vs.

Sh. Mool Chand and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ankit Chowdhri, Advocate for
Mr. P.I.P.Singh, Advocate
for the petitioners

Mr. Shiv Kumar, Advocate
for the respondents (Through V.C.).

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 11.07.2018 (Annexure P-2) whereby Appellate Authority constituted under the Payment of Gratuity Act, 1972 (for short '1972 Act')-cum Additional Labour Commissioner, Punjab has enhanced amount of gratuity as well as rate of interest determined by Controlling Authority.

2. Respondent No. 1 (for short 'respondent') worked with petitioners from 24.08.1979 to 31.05.2015. He retired on attaining the age of superannuation. He claimed gratuity under the 1972 Act. The petitioner did not pay gratuity claimed by respondent, thus, he approached the



Controlling Authority which vide order dated 28.03.2017 (Annexure P-1) determined amount of gratuity to the tune of Rs.7,16,847/- and further directed the petitioners to pay interest @ 9% per annum in terms of Section 7 (3A) of the 1972 Act. The respondent preferred appeal before Appellate Authority claiming higher principal amount and rate of interest. The Appellate Authority vide impugned order dated 11.07.2018 enhanced the amount by Rs.41,853/- and rate of interest from 9% to 10% per annum.

3. Mr. Ankit Chowdhri, Advocate submits that petitioner has made payment of amount of gratuity determined by Controlling Authority alongwith interest @ 9% per annum. The dispute is confined to the enhanced principal amount and rate of interest.

4. Per contra, Mr. Shiv Kumar, Advocate submits that there was error in calculation on the part of Controlling Authority which has been corrected by the Appellate Authority.

5. I have heard counsel for the parties and perused the record with their able assistance.

6. Section 7(3) of 1972 Act provides that employer shall pay gratuity within 30 days from the date it becomes payable. Sub-section (3A) of Section 7 further provides that employer shall be liable to pay interest at the rate as specified by Central Government by way of notification from time to time. The rate of interest cannot exceed the rate notified by Central Government from time to time for the payment of long term deposits. Sub-section (3A) of Section 7 of 1972 Act is reproduced as below:-

"(3A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from



the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.”

7. From the perusal of afore-cited sub-section, it is quite evident that rate of interest cannot be more than the rate notified by Central Government from time to time for payment of long term deposits. The Central Government has to notify interest to be payable on delayed payment of gratuity. Rate of interest is simple and not compound. The Central Government in exercise of power conferred by sub-section (3A) of Section 7 has issued notification dated 01.10.1987 which is reproduced as below:-

“S.O. 873 (E) – In exercise of the powers conferred by subsection (3A) of Section 7 of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby specifies ten per cent per annum as the rate of simple interest payable for the time being by the employer to his employee in cases where the gratuity is not paid within the specified period. 2. This notification shall come into force on the date of its publication in the official Gazette.”

8. From the perusal of aforesaid notification, it is evident that employer is liable to pay simple interest @ 10% for delayed payment of gratuity.



9. The petitioner is further disputing quantum of gratuity. The Appellate Authority has determined amount of gratuity considering the number of years the respondent served. The petitioner has failed to point out any glaring mistake warranting interference of this Court. In the absence of mistake in calculation, the order of Appellate Authority cannot be disturbed especially when order by Controlling Authority has not been challenged and petitioner has already made payment qua amount determined by Controlling Authority.

10. In the wake of above discussion and findings, the present petition sans merit and deserves to be dismissed. Accordingly, the instant petition is hereby dismissed.

11. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

06.08.2024
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	