



CWP-24384-2021

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

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CWP-24384-2021

Date of Decision : 11.12.2024

M/S BHARTIYA INSULATIONS

.... PETITIONER

V/S

APPELLATE AUTHORITY UNDER THE PAYMENT OF GRATUITY
ACT, 1972, FARIDABAD AND ORS

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Deepak Aggarwal, Advocate
for the petitioner.

Mr. Deepak Grover, Advocate
for respondent No.3.

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 26.10.2021 (Annexure P-3) whereby appellate authority under the Payment of Gratuity Act, 1972 (for short '1972 Act') has allowed appeal of respondent No.3-employee.

2. The respondent No.3 (for short 'employee') is an ex-employee of the petitioner. He joined petitioner on 01.11.2008 and worked till 12.05.2018. In this way, employee worked for almost 10 years. He was entitled to gratuity as per provisions of 1972 Act. The petitioner made full and final payment of Rs.64,904/- which was contrary to provisions of 1972 Act. The employee approached controlling



authority under 1972 Act which rejected his claim. He preferred appeal before appellate authority which vide impugned order dated 26.10.2021 allowed his appeal and directed the petitioner to pay gratuity Rs.2,88,462/- along with interest from 01.06.2018 to the date of actual payment.

3. Mr. Deepak Aggarwal, Advocate submits that appellate authority has mechanically assessed liability of the petitioner-management and allowed claim of the employee. The appellate authority has wrongly considered last drawn salary of the employee as Rs.50,000/- whereas as per his income tax return and salary register, his last drawn salary was Rs.25,000/-.

4. Per contra, Mr. Deepak Grover, Advocate submits that the appellate authority has rightly allowed appeal of the employee.

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

6. From the perusal of income tax return of the employee, it is evident that he was drawing salary Rs.25,000/- per month. Employees register is also disclosing that he was getting salary Rs.25,000/- per month. The Appellate Authority, without any concrete evidence and on the basis of oral statement which was contrary to record, accepted claim of the employee and calculated gratuity considering his last drawn salary Rs.50,000/- per month. As per record especially income tax return, it cannot be believed that employee was getting Rs.50,000/- per month. As per all the documents available on record, the employee was getting Rs.25,000/- per month, thus, gratuity was required to be calculated



considering last drawn salary Rs.25,000/- per month. The management at the time of termination of employee had paid Rs.64,904/- whereas employee was entitled to Rs.1,44,230/-. The petitioner is liable to pay differential amount. The appellate authority has ordered to pay gratuity along with interest @ 12% from the date of termination. The rate of interest prescribed under Section 7(3A) of 1972 Act read with notification issued therein is 10% per annum, thus, employee is entitled to interest @ 10% instead of 12%.

7. In the wake of above discussion and findings, the instant petition is partially allowed. The impugned order dated 26.10.2021 is hereby modified to the extent that employee would be entitled to differential amount i.e. Rs. 79,326/-(1,44,230-64,904) along with interest @ 10% per annum. The needful shall be done within two months from today.

(JAGMOHAN BANSAL)
JUDGE

11.12.2024

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