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

**CWP-25787-2022
Date of decision: 06.08.2024**

**HARYANA WELFARE SOCIETY FOR PERSON WITH SPEECH AND
HEARING IMPAIRMENTPETITIONER**

VS.

**THE CONTROLLING AUTHORITY UNDER PAYMENT OF GRATUITY
ACT, GURUGRAM HARYANA AND OTHERS ...RESPONDENTS**

CWP-25803-2022

**HARYANA WELFARE SOCIETY FOR PERSON WITH SPEECH AND
HEARING IMPAIRMENTPETITIONER**

Vs.

**THE CONTROLLING AUTHORITY UNDER PAYMENT OF GRATUITY
ACT GURUGRAM, HARYANA AND OTHERS
...RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. H.S. Gill, Advocate
for the petitioner (in both cases)

Mr. Rakesh Nagpal, Advocate
for respondent No. 3 (in both cases)

JAGMOHAN BANSAL, J (ORAL)

1. By this common order CWP-25787-2022 and CWP-25803-2022 are being disposed of since issues involved in both the petitions and prayers sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-25787-2022.



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2. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 17.11.2021 (Annexure P-3) whereby Controlling Authority has enhanced the amount of gratuity and order dated 05.09.2022 (Annexure P-5) whereby Appellate Authority has dismissed the appeal of the petitioner.

3. The petitioner is a Welfare Society which is working for the Welfare of persons with Speech and Hearing Impairment. The respondent No. 3 (for short 'respondent') joined petitioner on 26.10.1987. He retired from the Institute on 31.05.2016. The petitioner calculated gratuity payable to respondent. The gratuity amount was paid on 26.02.2018. The respondent claimed that petitioner has paid lesser amount than his eligibility. Thus, he approached Controlling Authority under Payment of Gratuity Act, 1972. The Controlling Authority enhanced the amount of gratuity payable to him. The petitioner preferred an appeal before the Appellate Authority, which was also dismissed. Hence the present writ petition.

4. Mr. H.S. Gill, Advocate submits that there was delay on the part of respondent in approaching Controlling Authority. The respondent has joined on 26.10.1987 and Gratuity Act became applicable to their organization w.e.f. 03.04.1997, thus, respondent was entitled to gratuity w.e.f. 03.04.1997. In support of his contention, he relies upon judgment of this Court in **CWP-23716-2013** titled as '**The Managing Committee, Public School Bal Bhawan and others Vs. The Controlling Authority and others**' decided on **17.08.2015**.

5. Per contra, Mr. Rakesh Nagpal, Advocate submits that Supreme Court in '**Independent Schools' Federation of India (Regd.) Vs. Union of India and another**', (2023) 1 SLR 386 has held that period prior to 03.04.1997 shall be counted. The services rendered prior to 03.04.1997 cannot be ignored.



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The Apex Court in '*The Management of Goodyear India Ltd. Vs. Shri K.G. Devessar*', (1985) 4 SCC 45 has ordered to count even period of service rendered prior to introduction of Payment of Gratuity Act, 1972.

6. I have heard counsels for the parties and with their able assistance perused the record.

7. Concededly, the petitioner has already released enhanced amount of Gratuity. The respondent as confirmed by Mr. Rakesh Nagpal, Advocate, has already received the payment. The prime grievance of the petitioner is that Gratuity was payable w.e.f. 03.04.1997, thus, period of service prior to 03.04.1997 cannot be counted for the purpose of determination of amount of gratuity.

8. The petitioner is relying upon judgment of this Court in CWP-23716-2013 which has been upheld by Division Bench of this Court in *LPA-192-2016*. The judgment cited by respondent is recent and has been delivered by Supreme Court. As per judgment of Supreme Court, the period of service rendered prior to 03.04.1997 must be counted for the purpose of gratuity for a minimum requisite period of 5 years'. In *The Management of Goodyear India Ltd.* (Supra), the Supreme Court has even ordered to count period of service rendered prior to introduction of Gratuity Act, 1972.

9. In the wake of judgments of Supreme Court in *Independent Schools' Federation of India (Regd.)* (Supra) and *The Management of Goodyear India Ltd.* (Supra), there is no substance in the instant petitions.

10. Dismissed.

06.08.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No