



CWP-30135-2024

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

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Decided on 07.11.2024

Managing Director, Confed, Haryana and another ...Petitioners

Versus

Manohar Lal and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Padamkant Dwivedi, Advocate for the petitioners

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of order dated 13.11.2019 (Annexure P-1) passed by Controlling Authority whereby they have been directed to pay a sum of ₹12,88,572/- along with interest to respondent No.1 and order dated 30.09.2020 (Annexure P-4) passed by Appellate Authority whereby their appeal has been dismissed.

2. The petitioner is a Public Sector Undertaking and respondent No.1 is its ex-employee. The petitioner initiated departmental proceedings against respondent No.1 wherein he was found guilty and a liability of ₹ 29 Lacs was fastened upon him. The petitioner filed civil suit for recovery of the said amount against respondent No.1. During the pendency of departmental proceedings, the Controlling Authority, under Payment of Gratuity Act, 1972

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(for short '**1972 Act**'), directed the petitioner to pay a sum of ₹12,88,572/- along with interest to respondent No.1 towards gratuity. The petitioner unsuccessfully preferred appeal before the Appellate Authority. The petitioner has deposited the entire amount of gratuity along with interest with the Controlling Authority. The petitioner wants adjustment of said amount against its dues.

3. Learned counsel for the petitioner submits that authorities under the 1972 Act have wrongly directed the petitioner to pay gratuity to respondent No.1 because he was found guilty in the departmental proceedings and liability of ₹29 Lacs has been fastened upon him. The petitioner has right to adjust amount of gratuity against its dues.

4. The petitioner has concededly filed recovery suit before the Civil Court. The Authorities under 1972 Act have held that case of the respondent does not fall within limitations contemplated by Section 4(6) of 1972 Act, thus, the amount of gratuity cannot be withheld. There is no provision under 1972 Act which permits the petitioner to adjust its dues against gratuity unless and until an employee is terminated. The case of respondent does not fall within exceptions carved out by Section 4(6) of 1972 Act and the petitioner has filed civil suit for recovery of its dues. The Civil Court may pass an appropriate order for the protection of interest of the petitioner.

5. In the backdrop, this Court does not find any jurisdictional error or factual infirmity in the impugned orders, however, the petitioner has right to recover its dues in accordance with law. The petitioner has filed civil suit,



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thus, the appropriate remedy for the petitioner is to approach Civil Court for the protection of its interest. Accordingly, the instant petition stands disposed of with liberty to the petitioner to approach Civil Court. It is made clear that impugned orders shall remain in abeyance for a period of two weeks from today.

(JAGMOHAN BANSAL)
JUDGE

07.11.2024
Mohit Kumar

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