

2025:PHHC:060106-DB



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

LPA-778-2025 (O&M)

Date of decision: 07.05.2025

M/S BHARTIYA INSULATIONS

.....Appellant

Versus

APPELLATE AUTHORITY & ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Mr. Bhisham Kumar Majoka, Advocate with
Ms. Mansi, Advocate for appellant.

SUDHIR SINGH, J.

CM-1969-LPA-2025

For the reasons given in the application, the same is allowed. Delay of 15 days in re-filing the appeal is condoned.

LPA-778-2025

Challenge in the instant intra Court appeal is to the order dated 11.12.2024 passed by the learned Single Judge, whereby the writ petition filed by the appellant was partially allowed and the order dated 26.10.2021, passed by the Appellate Authority under the payment of Gratuity Act, 1972, was modified holding the respondent-workman entitled to differential amount along with interest @ 10% per annum.

2. Before the learned Single Judge, the appellant had laid

challenge to the order dated 26.10.2021 (Annexure P-3 with the writ petition), passed by the Appellate Authority under the Payment of Gratuity Act, 1972, whereby the appeal filed by the respondent No.3 was allowed.

3. As per the facts on record, respondent No.3 joined the appellant-Management on 01.11.2008, and worked as such till 12.05.2018. He was made full and final payment of Rs.64,904/-, which was alleged to be against the provisions of the 1972 Act. Respondent No.3 approached the Controlling Authority under the 1972 Act, which had rejected his claim, but in appeal, the respondent No.3 was held entitled to the amount of gratuity i.e., Rs.2,88,462/- along with interest from 01.06.2018, till the date of actual payment. As noticed above, the challenge to the said order of the Appellate Authority remained unsuccessful in the writ petition.

4. Learned counsel appearing for the appellant has vehemently argued that while passing the impugned order, the learned Single Judge did not take into consideration that respondent No.3 left the job of his own and he had accepted the full and final payment, including the gratuity to the tune of Rs.64,904/-. It is further argued that the said amount was received by the respondent No.3 without any demur and, thus, respondent No.3 was estopped from filing any claim in respect of the gratuity before the Authorities under the 1972 Act.

5. We have heard learned counsel for the appellant and have also gone through the paper book and the impugned order passed by the learned Single Judge.

6. A perusal of the impugned order would show that the counsel appearing for the appellant had submitted before the learned Single Judge that the Appellate Authority had wrongly taken the last drawn salary of respondent No.3 as Rs.50,000/- which as a matter of fact, as per his income tax reports and salary register was Rs.25,000/. Accordingly, the learned Single Judge has taken the said amount of Rs.25,000/- per month as last drawn salary of Respondent No.3 and modified the order passed by the Appellate Authority, as indicated above.

7. Merely because respondent No.3 had accepted the amount of Rs.64,904/- at the time of termination of his services, is no ground to deny him the actual benefit accrued under the provisions of 1972, Act which came to be Rs.1,44,230/-. Accordingly, respondent No.3 has rightly been held entitled to the differential amount of Rs.79,326/- along with interest @ 10% per annum. It is not the case of the appellant that the provisions of 1972, Act, are not applicable to respondent No.3. Thus, as per the settled proposition of law any amount paid to respondent No.3 against his entitlement in terms of the provisions of 1972 Act, cannot be an estoppel as against him from claiming the actual amount that had accrued to him. We further find that the only argument raised by the learned counsel for the appellant before the learned Single Judge was in fact, acceded to by the learned Single Judge and, thus, it is beyond logic as to how the counsel for the appellant is justified in raising the arguments in the present second appeal, which were never raised before the learned Single Judge.

8. We find that the order passed by the learned Single Judge, does not suffer from any illegality or perversity which may warrant any interference by this Court.
9. No other point has been urged.
10. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.
11. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[ALOK JAIN]
JUDGE

07.05.2025
himanshu

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