



120

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

**LPA-603-2025 (O&M)  
Decided on: February 28, 2025**

Bhupinder Singh

....Appellant

versus

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH  
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

**Present:-** Mr. G.S. Bal, Senior Advocate with  
Mr. Dilshad S. Gill, Advocate for the appellant.

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**SUDHIR SINGH, J. (ORAL)**

**CM-1585-LPA-2025**

For the reasons stated in application, same is allowed, subject to  
all just exceptions.

**Main case (O&M)**

The present intra Court appeal is directed against the order dated  
28.01.2025 passed by learned Single Judge, in CWP-8289-2022, whereby the  
said writ petition filed by the respondent – State, was allowed.

2. Before the learned Single Judge, the respondent – State had laid  
challenge to the order dated 28.02.2020 (Annexure P-1 with the writ petition)  
whereby the benefit of gratuity had been granted to the appellant by the  
Controlling Authority under the Payment of Gratuity Act, 1972 (for short ‘the  
Act of 1972’), and the order dated 24.08.2021 (Annexure P-2 with the

petition) passed by the Appellate Authority upholding the order passed by the Controlling Authority.

3. Learned Single Judge had decided the batch of 04 writ petitions. In other 03 writ petitions, the petitioners therein had directly approached this Court for grant of benefit in their favour as was granted in favour of the present appellant, which was the subject matter of challenge in CWP-8289-2022.

4. As has been noticed by the learned Single Judge, the question that arose for consideration before the Court was whether the Home Guard volunteers were to be treated as “employee” within the definition envisaged under the Act of 1972 keeping in view the provisions of the Punjab Home Guards Act, 1947 (for short ‘the Act of 1947’) and the Rules made thereunder. After noticing the judgment delivered by this Court in **RSA-627-2005** titled as **Nirmala Devi and others vs. Director, Civil Defence, Home Guards, Punjab, Chandigarh and others, decided on 11.02.2009** and the judgment of the Hon’ble Supreme Court in **Civil Appeal No.2759 of 2015** titled as **Grah Rakshak, Home Guards Welfare Association vs. State of H.P. and others, decided on 11.03.2015**, it was held that members of the Home Guards were doing voluntary service and could not be treated as employees of the State of Punjab for grant of benefit by the authorities under the Act of 1972.

5. Learned Senior counsel for the appellant has vehemently argued that very perusal of the provisions of the Act of 1947, would make it clear that there is no stipulation as regards the engagement of the Home Guards as volunteers. It is also argued that the appointment of the appellant or the other

petitioners was in terms of the mandatory provisions of law and it was not back-door entry and therefore, the findings recorded by the learned Single Judge are not tenable in the eyes of law. It is also argued that the Home Guards of the State are made to work at par with the Punjab Police officials and they also retire on attaining the age of superannuation i.e., 58 years, therefore, they cannot be treated to be volunteers when their services are akin to the regular employees of the Department. Still further, it is argued that once the wages/ salary of the Home Guard are paid from the Government funds in lieu of the regular duties being performed by them and their duties being at par with the regular employees, they cannot be denied the benefit of being treated as employees of the Government. Reference is made to Section 2(e) of the Act of 1972 to contend that once the Home Guards draw the wages/ salaries, they are covered by the definition of “employee”. It is further argued that mere use of the word “honorarium” cannot denude the appellant the benefit, which otherwise, he is entitled to being a Home Guard regularly discharging the duties. Lastly, it is argued that having worked for 21 long years, the receipt of honorarium cannot be defined in such a way so as not to include it under the head of wages or salary.

6. We have heard learned counsel for the appellant and have also gone through the impugned judgment passed by the learned Single Judge.

7. We find that the learned Single Judge, while passing the impugned order has noticed that the issue whether or not a Home Guard volunteer is an employee of the State Government, is covered by the judgment of this Court in **Nirmala Devi’s case (supra)**. It was further observed that since the Home Guard volunteers are being paid daily

allowance in the shape of honorarium, they are not covered under the definition of employee under the Act of 1972 so as to claim gratuity. Still further, it was found that in **Grah Rakshak's case (supra)**, it was held by the Supreme Court that the Home Guards were not being paid the salary as there is no provision. The decision of this Court in **CWP-11357-2021** titled as **Mahinder Ram vs. Commandant General, Punjab Home Guards and others, decided on 10.02.2025** has been distinguished by the learned Single Judge holding that the question involved in the said case was whether during the period of suspension, the member of the Home Guard Establishment was entitled to the subsistence allowance or not.

8. The argument raised by the learned Senior counsel has already been dealt with by the learned Single Judge. We may further notice that as has been held by the Supreme Court in **Grah Rakshak's case (supra)**, the engagement of the Home Guards is under the Government scheme and the duration of their engagement squarely lies upon the requirement by the Government. It could not be disputed by learned Senior counsel that the decision in **Nirmala Devi's case (supra)** has been altered or modified in an appeal or revision, meaning thereby the same has attained finality. Once, the issue as regards the Home Guard volunteers being an employee of the State stood already adjudicated, learned Single Judge was perfectly justified in allowing the writ petition and setting aside the orders passed by the Controlling Authority and the Appellate Authority.

9. In view of the above, we do not find any illegality or perversity in the impugned order, which may warrant any interference by this Court.

10. No other point has been urged.

- 11. Hence, the present appeal is dismissed.
- 12. Pending application(s), if any, shall stand disposed of.

(SUDHIR SINGH)  
JUDGE

(JASJIT SINGH BEDI)  
JUDGE

February 28, 2025

mahavir  
Whether speaking/reasoned: Yes/No  
  
Whether reportable: Yes/No