



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

(115)

CWP No. 10978 of 2025

Date of Decision : 07.05.2025

T.P.S. Public School, Rindhana Road, Wazirpura, Gohana, Sonapat

...Petitioner

Versus

**Appellate Authority (Under the Payment of Gratuity Act, 1972), Rohtak
and others**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Anjali Khosla, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the prayer of the petitioner is that the order which has been passed by the appellate authority dated 28.08.2024 (Annexure P-1) by which the benefit of gratuity admissible to the respondent No. 3-workman under the the Payment of Gratuity Act, 1972 (hereinafter referred to as '1972 Act') has been granted, is factually incorrect and, therefore, the same is liable to be set-aside.

2. Learned counsel for the petitioner submits that the issue was raised by the respondent No. 3-workman before the authorities exercising jurisdiction under 1972 Act in the year 2021 and without adjudicating upon the aspect that whether the claim raised under 1972 Act was time barred or



not, the benefit of gratuity has been extended to the respondent No. 3-workman.

3. I have heard learned counsel for the petitioner and have gone through the record with her able assistance.

4. As per the pleadings by the respondent No. 3-workman, he was appointed in April, 2012 as Account Administrator and he continued working with the respondents till May, 2017 when he left the job but to be appointed again in November, 2018 and he worked till April, 2021. He had claimed the benefit of gratuity for whole of his service starting from the year 2012 till the year 2021. The petitioner herein raised the plea that respondent No. 3-workman was not in continuous service hence, as he failed to complete 05 years of continuous service, the relief of gratuity could not have been granted to respondent No. 3-workman.

5. In this regard, the appellate authority has recorded a finding that from April, 2012 till May, 2017, nothing has been brought to the notice that there was an interruption in service of the respondent No. 3-workman. The said finding is sought to be rebutted by the petitioner on the basis of the letter dated 01.04.2016, copy of which has been appended as Annexure P-12, wherein, the said employee accepted the agreement to join on the post of PGT (Physics).

6. It may be noticed that a bare perusal of the said Annexure P-12 would show that the employee was already working with the petitioner-School and was appointed on a higher post on which he joined on 01.04.2016. It is not the case of the respondent-workman that prior to the joining on the said post, the respondent No. 3-workman was not in service.



Merely, that the employee got appointed on a higher post will not mean that his earlier service stands discontinued, especially when, there has been no interruption in the service of the respondent-employee. The said fact has rightly been appreciated by the appellate authority in its order impugned to hold that there has been no interruption in the service of the respondent No. 3-workman for the period starting from 01.04.2012 till May, 2017 during which period, the employee completed the continuous service of 05 years, which is a condition requisite for the grant of benefit of gratuity.

7. It may be noticed that the benefit of gratuity has only been granted for the said period of service only and not for the subsequent period of service rendered by respondent No. 3-workman, which period started from November, 2018 till May, 2021. The said benefit for the said subsequent period has not been extended to the respondent No. 3-workman on the ground that there has been an interruption in the service period.

8. The argument which is being raised by the learned counsel for the petitioner is that the claim qua the benefit of gratuity was raised by respondent No. 3-workman in the year 2021 and the same was time barred. Learned counsel for the petitioner has not been able to point out any rule or regulation which debars the claim of the respondent No. 3-workman for the period 2012 till 2017. In the absence of any prescribed limitation period provided under the Act brought to the notice of this Court so as to debar the claim of respondent No. 3-workman, the assertion that the claim was time barred cannot be accepted.

9. No other argument is raised.



10. Keeping in view the above, no ground is made out for any interference by this Court in the present petition.

11. Dismissed in limine.

May 07, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No