



CM-4687-CWP-2025 in/& -1-
CWP-15044-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-4687-CWP-2025 in/&
CWP-15044-2022
Date of Decision :05.05.2025

Additional Deputy Commissioner (Development)-
cum-Project Director, District Rural Development
Agency, Hoshiarpur

...Petitioner

Versus

The Appellate Authority Under the Payment of Gratuity
Act, 1972-cum-Additional Labour Commissioner, Punjab
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dhirinder Kamal Saldi, Advocate for petitioner.

Mr. T.P. S. Chawla, Senior DAG, Punjab.

Ms. Jyoti Sareen, Advocate with (through V.C.)

Ms. Shivangi Chauhan, Advocate for respondent No.3.

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Harsimran Singh Sethi, J. (Oral)

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As prayed for, application is allowed.

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1. In the present petition, challenge is to the order dated 25.06.2019 (Annexure P/1) passed by the Controlling Authority as well as by the Appellate Authority envisaged under the Payment of Gratuity Act, 1972, (hereinafter referred to as '1972 Act') by which, the respondent No.3-workman has been held entitled for the grant of payment of gratuity under



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the 1972 Act.

2. Learned counsel for the petitioner-department argues that the entitlement of the respondent No.3-workman is to be seen keeping in view the definition of an employee given in Section 2(e) of the 1972 Act as the workman is not covered under the definition of an employee so as to grant the benefit of payment of gratuity.

3. Learned counsel for the petitioner-department submits that there are rules governing the service of the respondent No.3-workman which are to be made applicable hence, the 1972 Act could not have been made applicable upon the respondent No.3-workman.

4. Learned counsel appearing for the respondent No.3-workman argues that no rules which are alleged to be applicable upon the respondent No.3-workman have been brought either before the Controlling authority or before this Court hence, the assertion of the petitioner-department that the services of the respondent No.3-workman were being regulated by the rules under which the respondent No.3-workman is entitled for the grant of benefit of gratuity, is incorrect and by considering all the facts brought before the authority concerned, the jurisdiction under the 1972 Act has been exercised by the authorities concerned and a direction has been given to grant the benefit of gratuity to the respondent No.3-workman.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. The definition of the employee as envisages under the 1972 Act is as under:-

2(e) "Employee" means any person (other than an apprentice) who is employed for wages, whether the



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terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.”

7. A bare perusal of the above reproduction of Section 2(e) of the 1972 Act would show that the only exclusion is with regard to the employee, who is holding a post under the Central Government or the State Government and is governed by an Act or any rules providing for the payment of Gratuity. In order to exclude any employee from the benefit of 1972 Act, the said employee should be an employee of the Central Government or the State Government and in order to regulate his/her services for the payment of gratuity, rules have been framed.

8. Learned counsel for the petitioner-department was asked to point out as to which rules are applicable upon the respondent No.3-workman so as to exclude the jurisdiction under the 1972 Act, learned counsel for the petitioner-department submits that the Rural Development Agency Employees Regulations, 1991 are enforced by the petitioner-department.

9. On being asked whether these rules are applicable keeping in view the status of the respondent-workman, learned counsel for the petitioner-department very fairly conceded that as the respondent-workman was working on contractual basis, these rules will not govern a contractual employee.



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10. Once, learned counsel for the petitioner-department has conceded that 1991 Rules will not be applicable to the contractual employees, no other rules have been brought to the notice of this Court so as to exclude the jurisdiction of 1972 Act for the grant of benefit of gratuity to the respondent-workman.

11. In the absence of any such document brought on record that the respondent-workman was holding a post under the Central Government or the State Government and was governed by the rules for the grant of payment of gratuity, the authorities concerned have rightly exercised the jurisdiction to hold that respondent-workman is entitled for the grant of benefit of gratuity under the 1972 Act.

12. No other argument has been raised.

13. Keeping in view the facts and circumstances recorded herein above, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

May 05, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No