



CWP-16356-2019 & connected cases -2-

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Karan Singla, Advocate for the petitioner-Corporation.

Mr. N.K. Manchanda, Advocate for respondent No.1
in CWP-16356-2019.

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Harsimran Singh Sethi, J. (Oral)

1. In the present bunch of petitions, the challenge is to the order passed by the Appellate Authority under the Payment of Gratuity Act, 1972 (hereinafter referred to as 1972 Act'), by which the benefit of gratuity has been allowed in favour of the respondent No.1-employee. For sake of convenience, order passed by Appellate Authority dated 15.01.2019 (Annexure P/4) under CWP-16356-2019 is taken up for consideration

2. Learned counsel for the petitioner-Corporation argues that against the respondent No.1-employee, disciplinary proceedings were initiated as a consequence to charge sheet dated 29.05.2018 though, the same only culminated in the order of certain recoveries to be done from respondent No.1-employee on account of him causing loss to the petitioner-Corporation and the respondent No.1-employee remained in service till date of retirement.

3. Learned counsel for the petitioner-Corporation submits that once, the disciplinary proceedings were initiated against the respondent No.1-employee, even if, the employee has not been dismissed from service, the benefit of gratuity cannot be granted to him under 1972 Act.

4. Learned counsel for the respondent No.1-employee submits that first of all, the impugned order dated 15.01.2019 (Annexure P/4) which

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was passed in favour of the employee by the Appellate Authority has already been implemented. Learned counsel for the respondent-employee further submits that once, the employee remained in service up to the date of retirement from service, the benefit of gratuity is admissible to the employee as the benefit of gratuity can only be taken away in accordance to the provisions of 1972 Act according to which, only in a case where employee has been dismissed from service on account of misconduct, the gratuity can be stopped or, in case loss has been caused by the employee to the employer, the same can be recovered from the gratuity admissible to the employee whereas, in the present case, the recovery of the loss caused to the employer which is to be done from employee had already been done by the petitioner-Corporation and hence, the order passed by the authority concerned is perfectly valid and legal so as to grant the benefit of gratuity to the respondent-employee.

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

6. As per the law envisaged under Section 4(1) of 1972 Act, an employee who has worked for a continuous period of not less than five years with an institution is entitled for the grant of benefit of gratuity under the 1972 Act. The disqualification for the grant of benefit of gratuity is provided only under Section 4(6) of the 1972 Act, according to which, in case an employee has been dismissed from service on account of misconduct, the benefit of gratuity to the employee can be withheld or recovery can be done from the gratuity in case any loss has been caused by the employee to the institution.



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7. Further, the same question of law has already been decided by this Court in **CWP-10290 of 2016 titled as Punjab Agro Foodgrains Corporation Limited and another vs. Mohan Singh and others.**

8. Keeping in view the above, present petitions are disposed of with the observation that in case, any order passed by the competent authority with regard to the recovery of any amount qua the loss caused by the employee prior to the date when the employee retired, the same can be given effect to so as to recover the loss caused to the institution.

8. The respondents are on record and state that such an order imposing penalty for recovery of loss caused has already been implemented. Once, such an order has already been implemented and thereafter, the respondent-employee remained in service till his retirement and one of the respondent-employee has unfortunately died, no interference is called for by this Court and the present writ petitions are accordingly dismissed.

9. A photocopy of this order be placed on the file of connected cases.

March 10, 2025

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No