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AT CHANDIGARH

CWP-10290-2016

Date of Decision : January 16, 2025

Punjab Agro Foodgrains Corporation Ltd and another .. Petitioners

Versus

Mohan Singh and others .. Respondents

(2) CWP-10315-2016

Punjab Agro Foodgrains Corporation Ltd and another .. Petitioners

Versus

Rajinder Pal and others .. Respondents

(3) CWP-4287-2016

Punjab Agro Foodgrains Corporation Ltd and another .. Petitioners

Versus

Gurmail Singh and others .. Respondents

(4) CWP-10338-2016

Punjab Agro Foodgrains Corporation Ltd and another .. Petitioners

Versus

Tarsem Chand Bhardwaj and others .. Respondents

(5) CWP-13081-2016

Punjab Agro Foodgrains Corporation Ltd and another .. Petitioners

Versus

Saran Singh and others .. Respondents

2

CWP-14365-2016

.. Petitioner

Versus

.. Respondents

CWP-14369-2016

.. Petitioner

Versus

.. Respondents

CWP-14070-2016

.. Petitioner

Versus

.. Respondents

CWP-19730-2017

er .. Petitioners

Versus

.. Respondents

CWP-19768-2017

er .. Petitioners

Versus

.. Respondents

CWP-19732-2017

er .. Petitioners

Versus

.. Respondents

3

(12)

CWP-22552-2018

Punjab Agro Foodgrains Corporation Ltd and another .. Petitioners

Versus

Kavita Walia and others

.. Respondents

(13)

CWP-697-2019

Punjab Agro Foodgrains Corporation Ltd and another .. Petitioners

Versus

Shamsher Singh and others

.. Respondents

(14)

CWP-24868-2018

Punjab Agro Foodgrains Corporation Ltd and another .. Petitioners

Versus

Ajaib Singh and others

.. Respondents

(15)

CWP-2826-2019

Punjab Agro Foodgrains Corporation Ltd and another .. Petitioners

Versus

Mela Singh and others

.. Respondents

(16)

CWP-10907-2020

Punjab Agro Foodgrains Corporation Ltd and another .. Petitioners

Versus

Avtar Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. U.M. Khan, Advocate, for

Mr. Anupam Singla, Advocate, for the petitioner(s)

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in CWP Nos. 10290, 10315, 4287, 10338, 13081 of 2016 and CWP Nos.19730, 19768, 19732 of 2017 and 22552 of 2018 and for respondents No. 1 and 2 in CWP No.14070, 14365 and 14369 of 2016.

Mr. Somesh Gupta, Advocate, for the petitioners in CWP-697-2019 and CWP-10907-2020.

Mr. Manu Loona, Advocate, for the petitioner(s) in CWP-14365 and 14070 of 2016 and for respondent No.1 in CWP-10290, 10315, 10338 and 13081 of 2016.

Mr. Harshit Jain, Advocate, for the petitioner in CWP-24868-2018.

Mr. Mayank Mathur, Advocate, for the petitioner in CWP-2826-2019.

Mr. N.K. Manchanda, Advocate, for respondent No.1 in CWP-697 and 2826 of 2019.

Mr. J.K. Singla, Advocate and Ms. Suman Rani, Advocate, for respondent No.1 in CWP-4287-2016.

Mr. Devyansh, Advocate, for Mr. Ravi Gakhar, Advocate, for the respondents.

Mr. Tarun Singla, Advocate, for respondent No.2 in CWP-19732-2017.

Mr. Padamkant Dwivedi, Advocate, for respondent No.1 in CWP-19730 and 19768 of 2017.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, 16 writ petitions, the details of which have been given in the heading, are being disposed of as all these petitions involve the same question of law on similar facts.

2. In the present bunch of petitions, the question of law which has been raised is whether any amount due to the employer keeping in view any act committed by the employee concerned prior to his/her retirement, is recoverable from the gratuity of the employee concerned or not.

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3. The said question of law has already been settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.2766-2767 of 2005 titled as Secretary O.N.G.C Limited and another vs. V.U Warriar, decided on 20.04.2005*** wherein, in paragraph 25 and 26, it has been held that the employer is entitled to effect recovery from the retiral benefits including the gratuity. The relevant paragraph of the said judgment is as under:

“25. *It is well settled that gratuity is earned by an employee for long and meritorious service rendered by him. Gratuity is not paid to the employee gratuitously or merely as a matter of boon. It is paid to him for the service rendered by him to the employer [vide Garment Cleaning Works v. Its Workmen, [1962] 1 SCR 711]. In Calcutta Insurance Co. Ltd. v. Their Workmen, [1967] 2 SCR 596, after considering earlier decisions, this Court observed that "long and meritorious service" must mean long and unbroken period of service meritorious to the end. As the period of service must be unbroken, so must the continuity of meritorious service be a condition for entitling the workman to gratuity. If a workman commits such misconduct as causes financial loss to his employer, the employer would under the general law have a right of action against the employee for the loss caused and making a provision for withholding payment of gratuity where such loss caused to the employer does not seem to aid to the harmonious employment of labourers or workmen. The Court proceeded to state that the misconduct may be such as to undermine the discipline in the workers - a case in which it would be extremely difficult to assess the financial loss to the employer.*

26. In *Jarnail Singh v. Secretary, Ministry of Home Affairs and Ors*, [1993] 1 SCC 47, this Court had an occasion to consider the provisions of the Central Civil Services (Pension) Rules, 1972. The definition of "pension" included

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gratuity under Rule 3. Rule 9 conferred on the President right to withhold or withdraw pension in certain circumstances. The order was passed against the appellant withholding pension and the entire amount of death- cum- retirement gratuity otherwise admissible to him. The direction was given on serious irregularities found to have been committed by the appellant. The appellant challenged that order unsuccessfully before the Central Administrative Tribunal. He, therefore, approached this Court. His contention was that an amount of gratuity could not have been withheld. Negating the contention, the Court held that the power to withhold gratuity was conferred on the President under the relevant rules and hence, such action could not be said to be illegal. According to the Court, there could be adjustment of Government dues against the amount of death-cum- retirement gratuity payable to Government servant.”

4. The said question again came up for consideration before the Hon’ble Supreme Court of India in ***SLP No.11025 of 2020 titled as M/s Steel Authority of India Limited vs. Raghbendra Singh and others, decided on 15.12.2020*** wherein, the Hon’ble Supreme Court of India has again held that any recovery to be done from the employee keeping in view any act during the course of service, can be adjusted against the due payable to the employee concerned including gratuity. The relevant paragraphs of the said judgment are as under:-

“We have heard learned senior counsel for the petitioner and it appears that the grievance of the petitioner is qua the broad observations made in paras 19 and 21 in respect of the right to retain quarters since the dues were not paid. The fact remains that the quarter was never vacated and this resulted in proceedings under the Public Premise (Eviction of Unauthorized Occupants) Act, 1971 which culminated against

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the employee and had attained finality. But the entitlement of the respondent under a Scheme of the petitioner cannot be doubted. We are informed that the scheme no more exists. The amount in question is also quite small and thus, we feel it is not a fit case for interference under [Article 136](#) of the Constitution of India.

We, however, set aside the observations made in paras 19 and 21 qua the principles of penal rent being charged as we are of the view that if an employee occupies a quarter beyond the specified period, the penal rent would be the natural consequence and such penal rent can be adjusted against the dues payable including gratuity. This is so in view of the judgment in [Secretary, ONGC Ltd. v. V.U. Warriar](#) - (2005) 5 SCC 245 and the reliance placed in the impugned judgment on the case of [Ram Naresh Singh v. Bokaro Steel Plant \[Civil Appeal No.4740/2007\]](#) dated 31.03.2017 is misplaced as is not even a judgment but an order in the given facts of the case.”

5. Not only this, the same question also came up for consideration before this Court in ***CWP No.26564 of 2016 titled as Food Corporation of India vs. Amarjit Singh Brar and others, decided on 14.12.2020*** wherein, by placing reliance upon the judgment of the Division Bench of this Court in ***CWP No.16555 of 2006 titled as Devinder Singh vs. Food Corporation of India and others, decided on 28.03.2008***, a finding was recorded that the Department is within its jurisdiction to make recovery from the gratuity in case, any loss has been caused by the employee concerned to the Department.

6. Learned counsel for the respondents has not been able to rebut the said proposition of law.

7. Keeping in view the facts and circumstances of the present, case, the present writ petitions are disposed of with the direction that the

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petitioner-Punjab Agro Foodgrains Corporation Limited will be entitled to recover the amount if any, admissible to the Corporation in case, any such order of recovery of any amount has been passed against the employee concerned or in case, any act of the employee has resulted in loss to the Corporation, which has been proved by duly associating the employee concerned.

8. Learned counsel for the respondent-employees submits that the Corporation has passed a Resolution on 15.09.2020 for releasing of the gratuity amount and they have already released gratuity to the employees concerned.

9. It may be noticed that this Court is not passing an order as to whether, the employee concerned is entitled for the gratuity or not. The order being as to whether any recovery of loss or otherwise imposed against the employee during his/her service career, can be done from the retiral benefits including the gratuity of the employee concerned. Keeping in view the settled principle of law mentioned hereinabove, the recovery of the loss caused can be done from the retiral benefits of respondent-employees including gratuity. After the said deduction, the remaining amount, if any, admissible to the respondent-employees is to be released to the employees concerned.

10. The petitioner-Corporation is directed to consider the claim of each of the employee concerned and in case, any order of recovery has been passed against any employee qua any act or misconduct committed during the service career, after adjusting the said amount, in case, the liability of the petitioner-Corporation still remains to pay any amount qua pensionary

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benefits including gratuity to the employee concerned, the same be released to the said employee within a period of eight weeks from the date of receipt of copy of this order in case there is no other impediment to withhold the said gratuity keeping in view the Rules governing the service.

11. The present writ petitions are disposed of in above terms.
12. Civil miscellaneous application pending if any, also stands disposed of.
13. A photocopy of this order be placed on the file of other connected cases.

January 16, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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