



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228 (1)	CWP-5724-2016	
	Date of Decision: 24.04.2025	
Municipal Corporation, Karnal and others		...Petitioners
	Versus	
Bhagwan Dass & others		...Respondents
(2)	CWP--5739-2016	
Municipal Corporation, Karnal and others		...Petitioners
	Versus	
Puran Chand		...Respondent
(3)	CWP-5749-2016	
Municipal Corporation, Karnal and others		...Petitioners
	Versus	
Prem Chand Sharma		...Respondent
(4)	CWP-5750-2016	
Municipal Corporation, Karnal and others		...Petitioners
	Versus	
Bhim Singh		...Respondent
(5)	CWP-5751-2016	
Municipal Corporation, Karnal and others		...Petitioners
	Versus	
Madan Mohan Bhargav		...Respondent



CWP-7129-2022

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(6)

CWP-5752-2016

Municipal Corporation, Karnal and others

...Petitioners

Versus

S. Ishwar Chand

...Respondent

(7)

CWP-5753-2016

Municipal Corporation, Karnal and others

...Petitioners

Versus

S. Prem chand

...Respondent

(8)

CWP-5754-2016

Municipal Corporation, Karnal and others

...Petitioners

Versus

Om Parkash

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Prateek Mahajan, Advocate and
Mr. Daanish Mahajan, Advocate, for the petitioner(s).

Mr. Diwan S. Adlakha, Advocate, for respondent No.1.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present bunch, the challenges to the orders passed by the controlling authority under the Payment of Gratuity Act, 1972.

2. Learned counsel appearing on behalf of the petitioners submits that a bare perusal of order dated 31.07.2014 passed by the controlling authority as envisaged under the Payment of Gratuity Act 1972, copy of which has been appended as Annexure P-3, would show that the said order has been passed *ex parte* without taking into consideration the contention



being raised on behalf of the petitioners. Thereafter, an application dated September, 2014 was moved by the petitioners for recalling the said order so as to decide the issue afresh on merits by taking into consideration the respective stands of both the parties but even the said application to recall the *ex parte* order has been dismissed on 10.03.2015, copy of which has been appended as Annexure P-6. Learned counsel for the petitioners further submits that even the Appellate Authority vide its order dated 29.09.2015 (Annexure P-8) did not interfere so as to grant the opportunity to the petitioners to present their defence to the claim raised by the respondent-workmen under the Payment of Gratuity Act, 1972.

3. Learned counsel for the petitioners further submits that it is not a case where the benefit of gratuity had not been given to the employees but in the present case, workmen after getting the gratuity payable to them under the service rules, were claiming the benefit of gratuity under the Payment of Gratuity Act, 1972, which claim of the respondent-workmen was being defended by the petitioners but, as the counsel who was defending the petitioners, moved from Karnal to Chandigarh, the order passed by the authorities concerned annexed herein as Annexure P-3, was passed without noticing the stand of the petitioners. Hence, it is the prayer of the petitioners that the matter be remanded back to the controlling authority under the 1972 Act, so that appropriate order is passed after considering the relevant assertions of both the parties.

4. Learned counsel appearing on behalf of the respondent-workmen submits that though, the payment of the gratuity had been paid to them as per the service rules and not as per the provisions of the Payment of



Gratuity Act, 1972, which is favourable to the respondent-workmen; thereafter, the respondent-workmen raised the claim that the benefit of gratuity they are entitled to be calculated as per the Payment of Gratuity Act, 1972 so as to direct the petitioners to pay the difference amount of what should have been paid and what was paid and therefore, the said claim was allowed by the authorities concerned vide order dated 31.07.2014 (Annexure P-3) Learned counsel for the respondent-workmen further submits that the petitioners should have been vigilant enough to defend themselves rather, now approaching this Court to set aside the relief granted by the authorities concerned under the Payment of Gratuity Act, 1972.

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

6. It should be noted that for the best interest of justice, it should be the endeavour of the Courts to decide upon an issue after hearing both the parties on merits as far as possible. In the present case, it is a conceded fact that the *ex parte* order dated 31.07.2014 (Annexure P-3) was passed by the authorities exercising the powers under the Payment of Gratuity Act, 1972. Though, there is no default on the part of the workmen but, the *lis* should be decided after hearing the parties concerned especially when, the gratuity has already been extended to the respondent-workmen as per the service rules at the time of their retirement.

7. Further, once the an application dated September, 2014, was moved to recall the order proceeded *ex parte*, the authorities should have granted the said relief to the petitioners rather than dismissing the same so as to pass an order without considering the stand taken by the petitioners qua



the entitlement of the respondent-workmen for the grant of gratuity under the Payment of Gratuity Act, 1972.

8. Keeping in view the totality of the circumstance, orders dated 31.07.2014 (Annexure P-3), dated 10.03.2015 (Annexure P-6) and dated 29.09.2015 (Annexure P-8) are set aside and the case is remanded back to the controlling authority to pass a fresh order after hearing all the parties.

9. As, the respondent-workmen have suffered at the hands of the petitioners because they were proceeded against *ex parte* and a period of about 10 years have lapsed, the orders are set aside on a condition that the petitioners will pay a sum of Rs.25,000/- in each case to the workmen for the delay which has occurred. The controlling authority will only start fresh assessment in respect of the present case in case a sum of Rs.25,000/- is paid to the workman concerned. In case of default, present petitions will be treated as having been dismissed.

8. Further, as the workmen have already retired from service, the controlling authority is requested to decide the claim of the respondent-workmen within a period of three months of the first hearing before the controlling authorities. The parties are directed to appear before the controlling authority envisaged under the Payment of Gratuity Act, 1972 situated at Karnal, on 28.05.2025.

9. Photocopy of this order be placed on the files of other connected cases.

April 24, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No