



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 206)

- (1)

CWP-25288-2024
Date of Decision : 17.02.2025
- Punjab Mandi Board and another

...Petitioners
- Versus
- Jasdev Singh and others

...Respondents
- (2)

CWP-25305-2024
- Punjab Mandi Board and another

...Petitioners
- Versus
- Roop Singh and others

...Respondents
- (3)

CWP-25306-2024
- Punjab Mandi Board and another

...Petitioners
- Versus
- Gurcharan Singh and others

...Respondents
- (4)

CWP-25307-2024
- Punjab Mandi Board and another

...Petitioners
- Versus
- Nachhattar Singh and others

...Respondents
- (5)

CWP-25312-2024
- Punjab Mandi Board and another

CWP-25288-2024 and other
connected matters

2025:PHHC:027574



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...Petitioners

Versus

Rattan Lal and others

...Respondents

(6) CWP-25326-2024

Punjab Mandi Board and another

...Petitioners

Versus

Avtar Singh (since deceased) through his Lrs. and others

...Respondents

(7) CWP-31241-2024

Punjab Mandi Board and another

...Petitioners

Versus

Megh Nath Sharma and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sanjeev Sharma, Advocate for the petitioners
in all cases.

Mr. Kinshu Mittal, Advocate for respondent No. 1
in all cases.

Harsimran Singh Sethi J. (Oral)

1. In the present bunch of petitions, the challenge is to the orders dated 28.08.2023 passed by the Controlling Authority as well as to the order dated 09.08.2024 passed by the Appellate Authority under the Payment of Gratuity Act, 1972 (hereinafter referred to as '1972 Act') directing the



petitioners to grant that the respondent-employees gratuity under the 1972 Act on the ground that the respondent-employees had filed a Civil Suit claiming the pensionary benefits in accordance with the Punjab Civil Services Rules, which was allowed, hence, now the respondent-employees concerned cannot revert back to claim the benefit of gratuity under the 1972 Act.

2. Learned counsel appearing on behalf of the respondent-employees submits that once, under the 1972 Act, the employee has a right to claim the gratuity under the enactment which is beneficial to the employees concerned, the orders passed by the authorities under the 1972 Act, which have been impugned by the petitioners in the present petitions are perfectly valid and legal and are liable to be upheld.

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

4. The 1972 Act describes as to how, the payment of gratuity is to be made to an employee. Under Section 5 of the 1972 Act, appropriate Govt. has been given power to exempt certain establishments from application of the Act and it is a conceded fact that the petitioners are not exempted under the 1972 Act and are bound to comply with the provisions of 1972 Act.

5. Further, the argument of the learned counsel for the petitioners is that the petitioners have adopted the Punjab Civil Services Rules for the grant of pensionary benefits to respondent-employees hence, once the said pensionary benefits are being extended to the respondent-employees keeping



in view the rules governing the service, the claim raised by the respondent-employees for the grant of gratuity under the 1972 Act is liable to be rejected as they can only been paid gratuity under the said Rules as adopted by the petitioners especially when all counted together, the respondent-employees will be getting more money as compared under 1972 Act.

6. It may be noticed that once, the 1972 Act is applicable upon the petitioners, the petitioners are liable to calculate the amount of gratuity under the 1972 Act payable to the respondent-employees. Merely that the petitioners have adopted the Punjab Civil Services Rules for calculating the gratuity/pensionary benefits of the respondent-employees, they cannot deny the payment of gratuity under 1972 Act unless and until, the exemption is granted to them qua the applicability of 1972 Act and to have their own Rules to be made applicable upon the employees of the petitioner-Board. It is a conceded position of fact that as of now, no exemption from the applicability of 1972 Act has been granted to the petitioners. Hence, employees of petitioners can raise a claim under 1972 Act.

7. Further, as per Section 4 Sub Clause 5 of 1972 Act, nothing in this Section shall effect the right of an employee to receive the better terms of gratuity under any Award or Agreement or Contract with the employer. This shows that in case, the employee of the petitioner establishment feels that the option of payment of the gratuity under the 1972 Act is more favourable to him/her, especially when the petitioner-Board has not been exempted from the application of the 1972 Act, the Board cannot object to



the grant of the benefit of gratuity under the 1972 Act to the respondent-employees.

8. The last argument which has been raised by the learned counsel for the petitioner-Board is that the respondent-employees themselves had approached the Civil Court to claim the benefit of gratuity under the Civil Services Rules, which suit has already been decreed. It may be noticed that even if, the Civil Services Rules have been directed to be made applicable, but the same will not override the Act. Still in case, an employee has an option of getting the better gratuity under the 1972 Act, the direction given by the Civil Court to grant the gratuity under the Civil Services Rules, will not bind the employee to claim gratuity under 1972 Act as there is no rule of estoppel which can be made applicable.

9. At this stage, learned counsel for the petitioner submits that the interest upon the gratuity amount has been awarded by the authorities concerned to the respondent-employees from the date of retirement whereas, the respondent-employees had approached the authorities much after the said date, hence, the grant of interest may kindly be declined.

10. Qua the issue of grant of interest, it may be noticed that as per the judgment of the Co-ordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, in case, any amount belonging to an employee has been retained by an employer and used even if, there is no discrepancy in releasing the said amount by the employer, the employee will be entitled for interest. The relevant paragraph of ***J.S. Cheema's case (supra)*** is as under: -



“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

11. The amount of gratuity which the respondent-employees were entitled for under the 1972 Act was retained by the petitioner-Board and is being released upon passing of the impugned orders by the authorities under the 1972 Act hence, the respondent-employees have rightly been held entitled for the grant of interest and that too from the date of their entitlement. That being so, coupled with the fact that there is no delay in claiming the retiral benefits including the gratuity, no ground is made out for any interference by this Court in the present petitions.

12. Dismissed.

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

February 17, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No