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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision : 26-03-2025

1.

CWP-34519-2019 (O&M)

**HALAWASIYA VIDYA VIHAR MANAGEMENT COMMITTEE
AND ANR.**

.....Petitioner(s)

VERSUS

**APPELLATE AUTHORITY UNDER THE PAYMENT OF
GRATUITY ACT, HISAR AND OTHERS**

.....Respondent(s)

2.

CWP-24310-2019 (O&M)

**HALAWASIYA VIDYA VIHAR MANAGEMENT COMMITTEE
AND ANR.**

.....Petitioner(s)

VERSUS

**APPELLATE AUTHORITY UNDER THE PAYMENT OF
GRATUITY ACT, HISAR AND OTHER**

.....Respondent(s)

3.

CWP-24456-2019 (O&M)

**HALAWASIYA VIDYA VIHAR MANAGEMENT COMMITTEE
AND ANR.**

.....Petitioner(s)

VERSUS

**APPELLATE AUTHORITY, UNDER THE PAYMENT OF GRATUITY
ACT 1972 DEPUTY LABOUR COMMISSIONER HISAR AND ORS**

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Tushar Gera, Advocate
for Mr. Naveen Sharma, Advocate
for the petitioners.

Mr. Gaurav Jindal, Advocate
For respondent No.3 in CWP No.34519 of 2019 and
CWP No.24456 of 2019.

Mr. Shubham, Advocate

For Mr. Jatin Verma, Advocate
for respondent No.3 in CWP No.24310 of 2019.

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present bunch of three writ petitions involve common question of law in the context of common set of facts and thus they are being decided by a common order.

2. In the present bunch of petitions, the challenge is to the order passed by the authorities under the Payment of Gratuity Act, 1972 only on the ground that the Gratuity Act was made applicable upon the Educational Institutions starting from 03.04.1997 hence, the benefit of gratuity can be given to the employee starting from 03.04.1997 and not from the date prior to the same. For sake of convenience, order dated 09.02.2018 (Annexure P-4) and order dated 20.06.2019 (Annexure P-6) challenged in CWP No.34519 of 2019 are taken up for consideration.

3. Learned counsel for the petitioner submits that the grant of benefit of gratuity to the employees vide order impugned is contrary to what has been held in the judgment of the Division Bench of this Court in ***LPA No.192 of 2016 titled "Sneh Dhingra Vs. Managing Committee Public School", decided on 02.04.2019.***

4. Upon notice of motion, the respondent No.3-Workman in all the petitions have appeared and stated that the issue which has been raised by the petitioner in the present bunch of petitions has already been decided by Hon'ble Supreme court of India while passing order in ***Civil Appeal No.8162 of 2012 titled "Independent Schools' Federation of India (Regd.) Vs. Union of India and anr.", decided on 29.08.2022,*** wherein it has already been held that in case, any employee retires after 03.04.1997, he/she

is to be given the full benefit of the total service qua his entitlement of gratuity even if the service, that employee rendered is prior to 03.04.1997 hence, the claim of the petitioners that the service rendered by the respondent(s)-Workman prior to 03.04.1997 could not have been taken into consideration so as to grant him benefit of gratuity for the said period, cannot be accepted.

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

6. The only question which has been raised by the petitioners is that the benefit of service rendered by the respondent(s)-Workman qua their entitlement of gratuity in all the petitions prior to 03.04.1997 should not have been given by the authorities concerned while passing the impugned order, is arbitrary. The said issue has already been decided by the Hon'ble Supreme Court of India while passing order in ***Independent Schools' Federation of India's case (supra)***. The relevant paragraph 19 of the said judgment is as under:-

“19. The provisions of the PAG Act, even post the retrospective amendments, will apply only to those teachers who were in service as on 3rd April 1997, and at the time of termination have rendered service of not less than 5 years. The period of 5 years may be partly before 3rd April 1997, as the date on which the person was employed does not determine the applicability of the PAG Act. The date of termination of service, in the form of superannuation, retirement, or resignation, or death or disablement due to accident or disease, should be post the enforcement date, which in the present case is 3rd April 1997. The entire length of service, including the service period prior to 3rd April 1997, is to be counted for the purpose of computing the entitlement condition of 5 years of service. This is the correct effect of the ratio and decision in Management of Goodyear India

Limited. (supra) and the decisions explaining retroactive effect of a statute. This legal position would be equally true and correct when the PAG Act was first enforced with effect from 16th September 1972, and when Notification No. S-42013/1/95-SS. (II) under Section 1(3)(c) of the PAG Act was issued and enforced with effect from 3rd April, 1997. It would be the position in case of all notifications issued under Section 1(3) (c) of the PAG Act, unless a contrary intention is expressed, which is not the situation in the present case and thus need not be examined.”

7. A bare perusal of the judgment would show that as per the judgement of the Hon’ble Supreme Court of India in ***Independent Schools’ Federation of India’s case (supra)***, the entire length of service of an employee including the service rendered prior to 30.04.1997 is to be counted for computing the entitlement/conditions of 5 years of service, if employee retires after 03.04.1997.

8. That being so, as per the settled principle of law on the issue, the total length of service is to be taken into account with the requirement that the employee concerned should have retired or his/her services should have been terminated after 03.04.1997. Concededly, in the present case, the respondent No.3-Workman in all the cases retired after 03.04.1997 hence, the total length of service rendered by respondent(s)-Workman has rightly been taken into account so as to grant them the benefit of gratuity keeping in view the settled principle of law in ***Independent Schools’ Federation of India’s case (supra)***.

9. Learned counsel for the petitioner has not been able to rebut the settled principle of law keeping in view the judgment in ***Independent Schools’ Federation of India’s case (supra)***.

10. No ground is made out for any interference by this in the facts and circumstances of the present case.
11. Hence, the present bunch of three petitions stands dismissed.
12. Pending application, if any, also stands disposed of.
13. Photocopy of this order be placed on the files of other connected cases.

26-03-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO