

CWP-35002-2024 with CWP-273-2025 :1:

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

CWP-35002-2024 (O&M)
Date of decision : 10.01.2025

THE PUNJAB STATE CO-OPERATIVE SUPPLY AND
MARKETING FEDERATION LTD (MARKFED)

..... Petitioner

VERSUS

OM PRAKASH AND ANOTHER

..... Respondents

112

CWP-273-2025 (O&M)

THE PUNJAB STATE CO-OPERATIVE SUPPLY AND
MARKETING FEDERATION LTD (MARKFED)

..... Petitioner

VERSUS

VARINDER PAL SINGH AND OTHERS

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

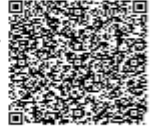
Present :- Ms. Drishtana Singh, Advocate
for the petitioner in CWP-35002-2024.

Mr. Animesh Sharma, Advocate
for the petitioner in CWP-273-2025.

Mr. Shiv Kumar, Advocate
for caveator/respondent No.1.

Harsimran Singh Sethi, J. (Oral)

1. In the present two cases, the petitioner is challenging the order
dated 31.05.2024 (Annexure P-1) passed by the Appellate authority under

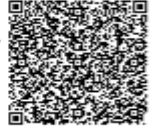


CWP-35002-2024 with CWP-273-2025 :2:

the Payment of Gratuity Act, 1972 (hereinafter referred to as '1972 Act,') so as to grant the benefit of gratuity, as admissible under 1972 Act for the extended period of service alongwith statutory interest fixed by the Government of India.

2. Learned counsel for the petitioners submits that the amount of gratuity payable is to be calculated as per the rules of the petitioner (MARFED) according to which, the admissible gratuity to the respondent-employee has already been extended to him at the time of his retirement hence, enhancing the amount of gratuity now alongwith interest by the authorities concerned while exercising powers under 1972 Act, and the rules framed therein, so as to cause prejudice to the petitioner, is liable to be set aside. Learned counsel for the petitioner further submits that under any circumstances, the interest given from the date of retirement should be modified so as to grant the interest from the date, when the permission was given by the State of Punjab to the petitioner for implementing the amendment to 1972 Act dated 29.03.2018 which was made operational from the year 2022.

3. Keeping in view the caveat filed, the counsel for the respondent-employee has appeared and submitted that the payment of gratuity is admissible to the employee under the 1972 Act and even if, the rules have been framed by the petitioner keeping in view the exemption granted from the operation of 1972 Act, but still the employee is only entitled for the payment of Gratuity either under the 1972 Act or under the Rules whichever is more beneficial to the employee hence, once vide



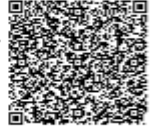
CWP-35002-2024 with CWP-273-2025 :3:

amendment dated 29.03.2018 the ceiling for payment of gratuity has been enhanced and the employee retired after the said date, the enhanced gratuity was admissible and the impugned order passed by the Appellate authorities concerned, is perfectly valid and legal.

4. Learned counsel for the respondent-employee further submits that the interest has rightly been granted from the day the right to claim the benefit accrued in favour of the respondent-employee and the rate of interest is also as per the notification of the Government of India dated 01.10.1987 according to which, in case, the gratuity has not been released immediately, the interest is to be paid at the rate of 10% per annum. Hence, claim of the petitioner to modify the interest aspect is also liable to be rejected.

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

6. As per the settled principle of law, in case there is a conflict between the Act and the rule, Act is to be implemented instead of rules. In the present case, the 1972 Act, was amended on 29.03.2018 enhancing the ceiling of the amount of gratuity from 10 lakhs to 20 lakhs. The respondent-employee retired after the enhancement of the ceiling i.e. after 29.03.2018 as the date of retirement of the respondent-employee is 31.05.2018. Hence, the respondent-employee was entitled for the payment of gratuity as admissible to him under the 1972 Act, as amended from time to time. The authorities concerned has rightly considered the issue in the correct perspective and granted the benefit of enhanced gratuity admissible to the respondent-employee.



CWP-35002-2024 with CWP-273-2025 :4:

7. The petitioner's assertion that the rules of the petitioner will prevail over the Payment of Gratuity Act, 1972 cannot be accepted. Further, merely that the State of Punjab had restrained the petitioner from giving effect to the notification dated 29.03.2018 and the said permission was only granted in the year 2022, will not take away the right of workman to claim the same from the due date and also to claim interest from the due date instead from the date the permission was granted.

8. Further, the authorities concerned granted the same relief to the three employees and the writ petition No.19979 of 2024 was filed by one such employee, which has already been dismissed by co-ordinate Bench of this Court on 20.08.2024. That being so, the prayer of the petitioner in the present petition cannot be accepted.

9. Further, the argument that the rate of interest has to be the bank rate and that too from the date when the permission was granted by the State of Punjab to the petitioner to adopt the amendment dated 29.03.2018, cannot be accepted. The reasons have already been given but at the cost of repetition, it may be noticed that the employee was entitled for the benefit under the payment of gratuity Act, 1972 irrespective of anything mentioned in the rules governing the service in case, the same is less beneficial to the employee concerned. Hence, the petitioners were under obligation to grant the benefit immediately upon retirement of respondent-employee, which benefit was delayed and the authorities concerned have rightly granted the benefit of interest. As mentioned earlier, as per the notification of the Government of India dated 01.10.1987 on the delayed gratuity, the interest is



CWP-35002-2024 with CWP-273-2025 :5:

to be granted at the date of 10% per annum which has been followed by the authorities concerned while passing the impugned order.

10. At this stage, learned counsel for the petitioner submits that while granting the actual benefit, the calculation which have been carried out to compute the entitlement of the employee is not correct as the correct basic salary of the employee has not been taken into account. In case the petitioner is aggrieved against the incorrect calculation only, he can move to the authorities concerned to rectify the same in case permissible by filing appropriate application and in case, any such application is filed, the authorities concerned will not pass an order unless and until the employee concerned is also heard on the said issue.

11. A photocopy of this order be placed on the connected case file numbered above.

(HARSIMRAN SINGH SETHI)
JUDGE

10.01.2025
Rimpal

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No