2026:PHHC:048575

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

116 **CWP-7414-2026.
Date of Decision: 12.03.2026.**

Gurmukh Singh ....Petitioner.

VERSUS

Appellate Authority under the Payment of Wages Act-cum-Labour Commissioner, Punjab, and others ....Respondents.

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CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Surinder Garg, Advocate for the petitioner.

Mr. Vikas Arora, Deputy Advocate General, Punjab.

Mr. R.K. Sharma, Advocate for respondent No.3.

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<u>HARPREET SINGH BRAR, J.</u>

The present writ petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of *certiorari* for setting aside the orders dated 23.08.2024 (Annexure P-8) and 09.10.2025 (Annexure P-11) passed by the Respondents No.2 and 1 respectively. It is further prayed that the respondent No.3-Society be directed to pay the Gratuity amount to the petitioner along with interest @ 18% per annum.

<u>CONTENTIONS</u>

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was employed as a Manager with the office of Respondent No.3–Society and superannuated on 31.03.2012. The primary grievance raised is that his gratuity has not been released to him on one pretext or the other, despite the lapse of nearly fourteen years since his retirement.

3. It is submitted that the petitioner had earlier approached this Court by filing CWP No.20487 of 2013 for grant of retiral benefits, which was disposed of by this Court on 17.09.2013 (Annexure P-1) with a direction to the respondents to consider the claim of the petitioner and pass a speaking order. In compliance thereof, the respondent-Society passed a Resolution dated 11.11.2013 (Annexure P-2), wherein it was mentioned that the retirement benefits of the petitioner would be paid in installments. Learned counsel emphasized that this Resolution nowhere stated that the Payment of Gratuity Act, 1972 (hereinafter 'the Gratuity Act') was not applicable.

4. Thereafter, the Joint Registrar, Cooperative Societies, Jalandhar passed an order dated 20.11.2013 (Annexure P-3), rejecting the claim of the petitioner for gratuity on the ground that the Gratuity Act is applicable only to institutions where 10 or more employees have worked in the preceding 12 months, and since less than 10 employees were working in the respondent-Society, the petitioner could not be given the benefit of gratuity. The petitioner challenged this order in CWP No.2189 of 2014, which was withdrawn on 30.01.2019 (Annexure P-4) with a liberty to approach the competent Authority under the Gratuity Act.

5. Pursuant to that liberty, the petitioner approached the Controlling Authority (Respondent No.2) under the Gratuity Act. The Controlling Authority framed issues and after hearing the parties, dismissed the claim petition on 23.08.2024 (Annexure P-8), holding that the Gratuity Act was not applicable to the Respondent Society as 10 or more persons were never employed on any day of the preceding 12 months.

6. The petitioner then filed an appeal before the Appellate Authority (Respondent No.1), which was dismissed vide order dated 09.10.2025

(Annexure P-11). The Appellate Authority observed that it seemed that the petitioner did not have interest in pursuing his case before the Controlling Authority, as he failed to lead evidence despite availing numerous opportunities. It was also held that the petitioner had taken pleas in the appeal which had not been taken before the Controlling Authority, and thus, they could not be considered beyond the pleadings. Further, it was held that the petitioner failed to establish that the respondent-Society employed more than 10 employees.

7. Learned counsel argues that the Controlling Authority as well as the Appellate Authority failed to consider the mandate of Section 1(3A) of the Gratuity Act, which provides that once the Gratuity Act becomes applicable to an establishment, it continues to apply notwithstanding any subsequent reduction in the number of employees below ten. It is contended that during the period from 01.05.1977 to 30.06.1978, the respondent–Society had ten employees in its establishment, thereby attracting the applicability of the Gratuity Act, which continued to operate thereafter. It is further submitted that two retired employees of the respondent–Society, namely Baldev Singh and Avtar Singh, have filed affidavits dated 23.09.2024 (Annexure P-12) and 25.09.2024 (Annexure P-13), respectively, stating that they were paid gratuity amounts of ₹4,14,888/- and ₹2,50,920/- respectively by respondent–Society.

8. Moreover, learned counsel further submits that one Sharan Singh, a member of the respondent–Society, sought certain information under the RTI Act, including whether the Payment of Gratuity Act was applicable to the respondent–Society; whether employees, namely Balbir Singh, Avtar Singh and Baldev Singh, had been paid gratuity; and whether the petitioner, Gurmukh Singh, was entitled to gratuity. In response, the Manager of the

respondent–Society, vide letter dated 31.12.2016 (Annexure P-14), acknowledged that the Gratuity Act is applicable to the Society and that the aforesaid employees had been paid gratuity. It was further stated that a sum of ₹4,98,448/- towards gratuity was payable to the petitioner, Gurmukh Singh.

9. Learned counsel also places reliance on the Balance Sheets for the years 2013-14 (Annexure P-15) and 2015-16 (Annexure P-16) which, according to him, show an amount of ₹4,98,448/- as still payable towards the petitioner’s gratuity.

10. *Per Contra*, learned counsel for respondents submits that the present writ petition is without merit and this Court ought not to interfere with the well-reasoned orders passed by the Controlling Authority and the Appellate Authority. It is submitted that both authorities have concurrently held that the Gratuity Act is not applicable to respondent-Society.

11. It is contended that the claim of the petitioner has been rightly declined since as per Section 1(3)(b) of the Gratuity Act, it applies only to establishments where ten or more persons are employed, or were employed, on any day of the preceding twelve months. It is argued that the petitioner could not produce any documentary evidence to prove that ten or more persons were employed in the respondent-Society as prescribed under the Gratuity Act. The salary bill of the society for the month of March 2012, which was exhibited as Exbt. R/4 before the Controlling Authority, was pointed out to demonstrate that less than ten persons were employed. It is further contended that reliance cannot be placed on the information furnished by the Manager of the respondent–Society vide letter dated 31.12.2016 (Annexure P-14), as he stands to derive a personal benefit in the event the Gratuity Act is held to be applicable to the respondent–Society.

<u>OBSERVATION & ANALYSIS</u>

12. I have heard the learned counsel for the parties and have perused the record with their able assistance.

13. This Court is of the considered view that it is well-settled that the powers under Article 226 of the Constitution of India are to be exercised only where the findings recorded by an authority are arbitrary, suffer from procedural illegality, or disclose manifest prejudice. This Court cannot re-appreciate the matter on merits and substitute the conclusion drawn by the concerned authority with its own. Tritely, a High Court cannot sit in appeal with respect to the decision arrived. As such, this Court must confine itself to ensuring that the findings rendered are justified by the material available on record, that the proceedings were conducted in compliance with the prescribed procedure as well as the principles of natural justice. A two-Judge Bench of the Hon'ble Supreme Court in ***South Indian Bank Ltd. v. Naveen Mathew Philip, (2023) 17 SCC 311***, speaking through Justice M.M. Sundresh, has observed as follows in this regard:

> *"13. **<u>A writ of certiorari is to be issued over a decision when the court finds that the process does not conform to the law or statute. In other words, courts are not expected to substitute themselves with the decision-making authority while finding fault with the process along with the reasons assigned. Such a writ is not expected to be issued to remedy all violations</u>**. When a tribunal is constituted, it is expected to go into the issues of fact and law, including a statutory violation. A question as to whether such a violation would be over a mandatory prescription as against a discretionary one is primarily within the domain of the Tribunal. So also, the issue governing waiver, acquiescence, and estoppel. We wish to place reliance on the decision of this Court in Hari Vishnu Kamath v. Syed Ahmad Ishaque [Hari Vishnu Kamath v. Syed Ahmad Ishaque, (1954) 2 SCC 881 : (1955) 1 SCR 1104] : (SCC pp. 898-900, paras 24-27):*
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> > *"24. Then the question is whether there are proper grounds for the issue of certiorari in the present case. There was considerable argument before us as to the character and scope of the writ of certiorari and the conditions under which it could be issued. The question has been considered by this Court in*

Parry & Co. Ltd. v. Commercial Employees' Assn. [Parry & Co. Ltd. v. Commercial Employees' Assn., (1952) 1 SCC 449] , G. Veerappa Pillai v. Raman & Raman Ltd. [G. Veerappa Pillai v. Raman & Raman Ltd., (1952) 1 SCC 334] , Ebrahim Aboobakar v. Custodian of Evacuee Property [Ebrahim Aboobakar v. Custodian of Evacuee Property, (1952) 1 SCC 798] and quite recently in T.C. Basappa v. T. Nagappa [T.C. Basappa v. T. Nagappa, (1954) 1 SCC 905] . On these authorities, the following propositions may be taken as established:

24.1. Certiorari will be issued for correcting errors of jurisdiction, as when an inferior court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it.

24.2. Certiorari will also be issued when the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice.

24.3. The Court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the Court will not review findings of fact reached by the inferior court or Tribunal, even if they be erroneous. This is on the principle that a Court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy, if a superior court were to rehear the case on the evidence, and substitute its own findings in certiorari. These propositions are well-settled and are not in dispute*…*

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…The position was thus summed up by Morris, L.J. : (R. case [R. v. Northumberland Compensation Appeal Tribunal, ex p Shaw, (1952) 1 KB 338 (CA)] , KB p. 357)

> *‘**It is plain that certiorari will not issue as the cloak of an appeal in disguise. It does not lie in order to bring up an order or decision for rehearing of the issue raised in the proceedings. It exists to correct error of law where revealed on the face of an order or decision, or irregularity, or absence of, or excess of, jurisdiction where shown.**’*

27. In G. Veerappa Pillai v. Raman & Raman Ltd. [G. Veerappa Pillai v. Raman & Raman Ltd., (1952) 1 SCC 334] , it was observed by this Court that under Article 226 the writ should be issued : (SCC p. 341, para 26)

> ***‘26. … in grave cases where the subordinate tribunals or bodies or officers act wholly without jurisdiction, or in excess of it, or in violation of the principles of natural justice, or refuse to exercise a jurisdiction vested in them, or there is an error apparent on the face of the record.****…’*

In T.C. Basappa v. T. Nagappa [T.C. Basappa v. T. Nagappa, (1954) 1 SCC 905] the law was thus stated : (SCC p. 915, para 11)

> ***‘11. … An error in the decision or determination itself***

> ***<u>may also be amenable to a writ of "certiorari" but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by "certiorari" but not a mere wrong decision.</u>'"***
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> (Emphasis supplied)

14. The Controlling Authority, vide order dated 23.08.2024 (Annexure P-8), observed that the petitioner had failed to produce any documentary evidence to establish that ten or more persons were employed in the respondent–Society during the preceding twelve months, as required under Section 1(3)(b) of the Gratuity Act. On the other hand, the respondent–Society placed on record the salary bill for March 2012, which clearly indicated that only four employees were working in the establishment at the relevant time. Further, the Appellate Authority, vide order dated 09.10.2025 (Annexure P-11), upheld the findings of the Controlling Authority. It was specifically observed that the appellant (Gurmukh Singh) had not diligently pursued his case before the Controlling Authority, as he failed to adduce proper evidence despite being afforded multiple opportunities, ultimately resulting in the closure of his evidence. It was also noted that the appellant sought to raise new grounds at the appellate stage, particularly with regard to the alleged payment of gratuity to other co-employees, which had not been pleaded before the Controlling Authority. The Appellate Authority, therefore, held that the appellant had failed to establish that the respondent–Society employed ten or more persons and reiterated that evidence beyond the scope of the original pleadings cannot be relied upon at the appellate stage.

15. Thus, this Court is of the considered opinion that the Controlling Authority and the Appellate Authority in the present case have passed well-

reasoned orders and the findings recorded therein are neither arbitrary nor tainted by any procedural or jurisdictional irregularity, nor do they disclose any manifest error apparent on the face of the proceedings. This Court is satisfied that the conclusions reached are duly supported by the material on record and that the proceedings were conducted in accordance with the prescribed procedure as well as the principles of natural justice. Consequently, none of the grounds warranting interference with the impugned orders, as noted above, are made out. Furthermore, learned counsel for the petitioner has failed to place any material on record to establish that, during the period from 01.05.1977 to 30.06.1978, the respondent–Society had ten or more employees so as to attract the applicability of the Gratuity Act. Accordingly, this contention is liable to be rejected.

CONCLUSION

16. In view of the foregoing discussion, the present petition is **dismissed**. This Court finds no ground to interfere with the impugned orders dated 23.08.2024 (Annexure P-8) and 09.10.2025 (Annexure P-11).

17. Pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

12.03.2026
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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No