

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

Civil Writ Petition No.11947 of 2015  
Date of Decision: May 29, 2015

BPS, Mahila Vishwavidyalaya, Khanpur Kalan, Tehsil Gohana, District  
Sonapat & another

...Petitioners

Versus

Krishna Devi & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Tribhuvan Dahiya, Advocate,  
for the petitioners.

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**AMIT RAWAL, J. (Oral)**

The question raised in the present writ petition is whether the Payment of Gratuity Act, 1972 (for short “the Act”) would be applicable to the employees of the petitioners.

Mr.Tribhuvan Dahiya, learned counsel appearing on behalf the petitioners submits that Section 2(e) of the Act envisages that the Act would only apply in case there are no rules and in case there are rules, the person would be entitled to payment of gratuity as per rules. He further submits that the husband of respondent No.1 unfortunately, while in harness, died on 7.7.2010 and for incorporating the element of gratuity in the rules, the petitioners had submitted an application to Higher Education Department on

25.4.2013. He also submits that as per Rule 5(2) of 2006 Rules, the family shall be entitled to receive family pension as per the normal rules only after the period during which he/she receives the financial assistance.

Learned counsel further submits that as per Rule 5(2) of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (for short “2006 Rules”), respondent No.1 is receiving the monthly financial assistance and cause of action to claim gratuity would arise to an employee on his/her superannuation. He further submits that if the deceased would have been alive, he would have retired on 30.6.2015. Respondent No.1 invoked the jurisdiction of the Controlling Authority under the Payment of Gratuity Act, Circle-I, Sonapat in the year 2011 and the said authority, after contest, passed the order by holding that respondent No.1 is entitled to gratuity and interest to the tune of ₹52,359/-, to be paid within a period of 30 days, failing which it would entail interest @9% per annum on the amount of gratuity. The said order, as per the learned counsel for the petitioners, had been assailed by filing an appeal (Annexure P-10), which has also been dismissed vide order dated 25.7.2014.

I have heard the learned counsel for the petitioners and appraised the paper book.

It is a matter of record that on the date of the death of the husband of respondent No.1, there was no element of gratuity in the prevailing rules and, therefore, rightly so the provisions of Section 2(e), which define the definition of ‘employee’ have been invoked and, thus, the family of the deceased would be entitled to claim gratuity as per the

provisions of the Act.

Since the petitioners have suffered a statement before this Court that respondent No.1 is being provided financial assistance as per Rule 5(2) of 2006 Rules, she would be entitled to gratuity only w.e.f. 1.7.2015 when her husband would have superannuated on 30.6.2015. The aforementioned contention has some force and accordingly I dispose of the present writ petition by issuing directions to the petitioners to continue to pay the financial assistance to respondent No.1 till 30.6.2015 and thereafter the order of the authority shall be made effective and respondent No.1 shall be entitled to gratuity as ordered by the Controlling Authority along with interest.

Learned counsel for the petitioner submits that as per the requirement of law, before filing an appeal, the amount assessed by the Controlling Authority has to be deposited with the Appellate Authority and the same is stated to have been deposited. He submits that the said amount be refunded so that the same can be further transferred/handed over to respondent No.1 after 30.6.2015. The amount so deposited is directed to be refunded to the petitioners, who are further directed to make the payment of the gratuity as ordered by the Controlling Authority within a period of thirty days commencing from 1.7.2015, failing which it shall entail interest @9% per annum.

**May 29, 2015**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**