

2025.PHHC.052094-DB



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

Date of decision: 22.04.2025

1. LPA-1135-2025 (O&M)

BHAKRA BEAS MANAGEMENT BOARD

.....Appellant

Versus

ISHWAR DASS & ORS.

.....Respondents

2. LPA-1136-2025 (O&M)

BHAKRA BEAS MANAGEMENT BOARD

.....Appellant

Versus

KHUSHI RAM & ORS.

.....Respondents

3. LPA-1139-2025 (O&M)

BHAKRA BEAS MANAGEMENT BOARD

.....Appellant

Versus

AMAR NATH & ORS.

.....Respondents

4. LPA-1144-2025 (O&M)

BHAKRA BEAS MANAGEMENT BOARD

.....Appellant

Versus

CHINT RAM & ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Mr. Sarthak Gupta, Advocate for the appellant.

SUDHIR SINGH, J.

CMs-2788-89-96 & 2807 in LPAs-1135, 1136, 1139 and 1144 of 2025

For the reasons given in the applications, the same are allowed. Delay of 12 days in filing all the appeals, is condoned, subject to all just exceptions.

Main case(s)

This order shall dispose of the above noted 4 appeals arising out of a common order dated 21.01.2025, whereby a batch of 8 writ petitions filed by the appellant-Management, were dismissed.

2. For the facility of reference, the facts are taken from LPA-1135-2025.

3. Before the learned Single Judge, the appellant-Management had laid challenge to the orders dated 06.06.2018 and 24.01.2019 (Annexures P-4 and P-7 with the writ petition) passed by the Controlling Authority-respondent No.2 and Appellate Authority-respondent No.3 under the Payment of Gratuity Act, 1972 (for short 'the Act'). Vide the said orders, the aforesaid authorities had held the workmen entitled to gratuity for 7 days for each completed year on account of their seasonal employment.

4. The facts regarding the employment of the respondent-workman are not disputed. The appellant-Management disputes the orders passed by the authorities and upheld the learned Single Judge

of this Court on the ground that it is a permanent establishment and not a seasonal one. It is the contention of the learned counsel for the appellant-Management that the nature of the establishment is to be seen and not the nature of employment. It is further argued that merely because the respondent-workman had been employed on seasonal basis, would not make the appellant-Management as a seasonal establishment, particularly when the appellant-Management has been operating as a permanent establishment and the services of the respondent-workman were availed due to the requirement of the rainy season. While referring to the judgment of the learned Single Bench of Madras High Court in **Tamil Nadu Civil Supplies Corporation Vs. The Appellate Authority under the Payment of Gratuity Act & Ors.**, W.P.(MD) No.17698 of 2019 and W.M.P. (MD) Nos.14193 and 14195 of 2019 decided on 17.08.2023, it is argued that it is settled law that the nature of the establishment is to be seen and not the nature of the employment, while examining the claim of the seasonal employees for grant of gratuity in terms of second proviso to Section 4 of the Act.

5. We have heard learned counsel for the appellant and have also gone through the records of the case, including the impugned order passed by the learned Single Judge.

6. As noticed above, the nature of employment of the respondent-workman is not disputed. It has also come on record that the respondent-workman had been employed by the appellant-Management for a period of 89 days during the rainy season from the year 1979 to 2015. The contention of the learned counsel for the

appellant-Management that the respondent-workman is not entitled to the gratuity as stipulated under the proviso to Section 4(2) of the Act is not tenable for the reason that the Act is a welfare legislation and it has to be interpreted in a way to give benefit to the workman. Once, it has been found by the authorities under the Act as also by the learned Single Judge that the employment of the respondent-workman was not in dispute, we find no reason to interfere in the present appeal.

7. The learned Single Judge has also observed that though the appellant-Management had been in operation throughout the year qua various activities being undertaken for the purpose for which it was established, yet the fact remained that during rainy season the respondent-workman was employed and, thus, qua the seasonal employees, the establishment was to be treated as seasonal establishment. It has further been observed that the nature of the appellant-Management is to be seen, keeping in view the employment given and the nature of duties performed by the workmen. The relevant extracts from the findings of the learned Single Judge, would read as under:-

“9. The status of the institute is to be seen keeping in view the employment given and the nature of the duties being performed by the workmen. In case, for certain employees, the institution is only giving them seasonal employment qua the said workmen, the institution has to be treated as a seasonal establishment, qua the employees are working throughout the year in the same institution for such employees the institution

has to be treated as a full Establishment and not the seasonal Establishment hence, it cannot be said that there is a straight-jacket formula that the institution can either be an Establishment or a Seasonal Establishment or cannot be both. The nature of employment given by an employer, determined its nature qua the said employment hence, the order which has been passed by the authorities concerned for the payment of gratuity on the asking of the petitioner that they were appointed for a particular seasons during which their duties were required for, is perfectly valid and legal.

10. The said finding has been recorded only on the asking of the petitioner and not on the asking of the respondent-employees for the reason that for the payment of gratuity to a seasonal employee, is for 7 days for each completed season whereas for the other employees, it is for 15 days for the each completed year. Rather the petitioner(s) have been benefited by treating it to be a Seasonal Establishment qua the workmen who have been treated as seasonal workman and that too at the cost of the respondent-workman but even the said finding is under challenge before this Court at the hands of the petitioner institute, which cannot be accepted.

8. We find that the respondent-workman and the other similarly situated employees had been employed for 89 days during the rainy season for nearly 13 to 36 years. Once they had been

continuously appointed and their employment is not in dispute, we concur with the finding recorded by the learned Single Judge that qua the respondent-workman and other similarly situated employees, the Establishment is to be treated as seasonal and qua the permanent employees, it is to be treated as permanent Establishment. The findings recorded by the learned Single Judge while upholding the orders passed by the authorities under the Act, do not suffer from any patent illegality. The judgment relied upon by the learned counsel for the appellant is not applicable to the facts of the present case, as the nature and span of employment in the said case was different from the one involved in the present case(s).

9. In view of the above, finding no merit in the present appeals, the same are hereby dismissed.

10. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[ALOK JAIN]
JUDGE

22.04.2025

himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No