



LPA-1089-2025 (O&M)
and other connected cases

-1-

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

(119)

LPA-1089-2025 (O&M)

The Punjab State Cooperative Supply & Marketing Federation Ltd.

... Appellant

Versus

Sham Lal and others

... Respondents

(120)

LPA-1094-2025 (O&M)

The Punjab State Cooperative Supply & Marketing Federation Ltd.

... Appellants

Versus

Appellate Authority under the Payment of Gratuity Act, 1972 and others

... Respondents

(139)

LPA-1473-2025 (O&M)

The Punjab State Cooperative Supply & Marketing Federation Ltd.

... Appellant

Versus

Om Parkash and another

... Respondents

LPA-1475-2025 (O&M)

The Punjab State Cooperative Supply & Marketing Federation Ltd.

... Appellant

Versus

Varinder Pal Singh and others

... Respondents



LPA-1089-2025 (O&M)
and other connected cases

-2-

(140)

LPA-1808-2025 (O&M)

The Punjab State Cooperative Supply & Marketing Federation Ltd.

... Appellant

Versus

Surender Kumar Walia and others

... Respondents

Date of decision : 17.09.2025

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present:- Mr. Vikas Singh, Advocate and
Ms. Anamika Sheoran, Advocate
for the applicant(s)/appellant(s).

Ms. Arundhati Kulshreshtha, AAG, Punjab.

Mr. Shiv Kumar, Advocate,
Mr. Raman Kaplish, Advocate and
Mr. Lovedeep Singh, Advocate for the respondents
in LPA Nos.1089, 1473, 1475 & 1808 of 2025.

Mr. Surinder Garg, Advocate for respondent No.3
in LPA-1094-2025.

Anupinder Singh Grewal, J. (Oral)

**CM-2681-LPA-2025 in LPA-1089-2025 &
CM-2685-LPA-2025 in LPA-1094-2025**

1. These applications are for condonation of delay in filing the appeal(s).
2. Issue notice in the applications to the non-applicants/respondents.
3. Learned counsel(s) appearing for the respondents accept notice(s) and submit that they have no objection if the delay is condoned.



**LPA-1089-2025 (O&M)
and other connected cases**

-3-

4. Heard.
5. For the reasons stated in the application(s), the same are allowed and delay in filing the appeals is condoned.

**CM-2680-LPA-2025 in LPA-1089-2025
CM-2684-LPA-2025 in LPA-1094-2025,
CM-3601-LPA-2025 in LPA-1473-2025,
CM-3604-LPA-2025 in LPA-1475-2025 &
CM-4411-LPA-2025 in LPA-1808-2025**

1. These applications are for condonation of delay in re-filing the appeal(s).
2. Heard.
3. For the reasons stated in the application(s), the same are allowed and delay in re-filing the appeals is condoned.

Main appeals

1. By this common judgment, the aforementioned Letters Patent Appeal(s) are being decided as common questions of law and facts are involved. For the sake of convenience, the facts have been taken from LPA-1089-2025.
2. The appellant-MARKFED has impugned the judgment(s) of the Single Bench whereby the writ petition(s) preferred by it challenging the orders passed by the Controlling Authority as well as the Appellate Authority under the Payment of Gratuity Act, 1972 (hereinafter referred as 'the 1972 Act') has been dismissed.
3. Learned counsel for the appellant submits that the age of superannuation of the private respondents was 58 years. Therefore, they would be entitled to gratuity only for the period of service rendered by them upto that



**LPA-1089-2025 (O&M)
and other connected cases**

-4-

age. Their services were extended pursuant to the instructions issued by the State of Punjab dated 08.10.2012. Hence, the extended period of service should be considered only for the purpose of other pensionary benefits in accordance with Rule 3.17A (Volume II, Chapter III) of the Punjab Civil Services Rules, which are applicable to the private respondents and should not be taken into account for the computation of gratuity.

4. Learned counsel for the private respondents, however, submits that since the private respondents had opted for extension of service, which was duly accepted by the appellant, they are entitled to all consequential benefits along with gratuity for the entire duration of service rendered, including the extended period. In support of this submission, he has relied upon the judgment of the Supreme Court in the case of **G.B. Pant University of Agriculture and Technology versus Sri Damodar Mathpal**, bearing SLP No.1803/2018, decided on 18.11.2021.

5. Heard.

6. The private respondents were working with the appellant on various posts and their age of superannuation was 58 years. In pursuance to the instructions issued by Punjab Government on 08.10.2012, employees were given the option to seek an extension of service for a maximum period of two years beyond the age of superannuation. The private respondents exercised this option. The appellant being a Cooperative Society governed by the Punjab Cooperative Societies Act, 1961, having adopted the aforementioned government instructions, permitted them to continue in service upto the age of 60 years. However, the appellant subsequently denied them the benefit of the



LPA-1089-2025 (O&M)
and other connected cases

-5-

extended period of service for the purpose of computation of gratuity, which compelled the private respondents to raise their claim before the Controlling Authority. The Controlling Authority held that the entire period of service including the extended service is to be counted for determination of amount payable towards gratuity as it is governed by the provisions of the 1972 Act. The order of the Controlling Authority was upheld by the Appellate Authority.

7. Aggrieved thereagainst, the appellant challenged the orders of the Controlling Authority and the Appellate Authority before the Single Bench of this Court by filing a writ petition, which was dismissed on the ground that the payment of gratuity is governed by Section 4 of the 1972 Act, and that the Act does not specifically exclude the extended period of service for computing the gratuity.

8. Before advertng to the merits of the case, it is pertinent to discuss Rule 3.17 A (Volume II, Chapter III) of the Punjab Civil Service Rules, which specifies the qualifying period of service for pension payable to the employees for the service rendered by them. The relevant extract of the Rule 3.17A (Volume II, Chapter III) is reproduced hereunder:-

CHAPTER III

SERVICE QUALIFYING FOR PENSION

“3.17-A. (1) Subject to the provisions of rule 4.23 and other rules and except in the cases mentioned below, all service rendered on establishment, interrupted or continuous, shall count as qualifying service:—

(i) to (viii) xxxxxx

(ix) Removal from public service for misconduct, insolvency, inefficiency not due to age, or failure to pass an examination will entail forfeiture of the past service.

(x) Service rendered beyond the date of retirement on superannuation in terms of rule 3.26 of Punjab Civil Services Rules, Volume I, Part I.”

(emphasis supplied)



9. It is evident from a plain reading of the Rule 3.17A which is applicable to the private respondents that the extended service of an employee is to be considered for the purpose of pensionary benefits. However, the Rule is silent with regard to the payment of gratuity to employees whose services have been extended, but the component of gratuity is governed by Section 4 of the Payment of Gratuity Act, 1972. For ready reference, the relevant extract thereof, is reproduced below:

Section 4. *Payment of gratuity.*

(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,--

(a) on his superannuation, or

(b) on his retirement or resignation, or

(c) on his death or disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority.

Explanation.-- For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account:

Provided further that in the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the



**LPA-1089-2025 (O&M)
and other connected cases**

-7-

year], the employer shall pay the gratuity at the rate of seven days' wages for each season.

Explanation.-- In the case of a monthly rated employee, the fifteen days' wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.

(3) The amount of gratuity payable to an employee shall not exceed such amount as may be notified by the Central Government from time to time

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee receive better terms of gratuity under any award or agreement or contract with the employer.

(6) Notwithstanding anything contained in sub-section (1),--

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;

(b) the gratuity payable to an employee may be wholly or partially forfeited

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.”

10. It is apparent that the entire period of service rendered by an employee must be taken into account for computing gratuity under Section 4 of the 1972 Act, which provides that gratuity is payable to an employee who has completed continuous service of not less than five years and for every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee. Therefore, the appellant ought to have included the extended period of service of the private respondents at the time of calculation of gratuity payable to them upon their retirement.



11. We draw support from the judgment of the Supreme Court in the the case of **G.B. Pant University of Agriculture and Technology (supra)**, wherein it has been held that once an employee opts to extend their service beyond the age of retirement, he cannot be deprived of gratuity for the entire period of service unless an exemption has been granted by the State Government. Indubitably, in the instant case, the appellant had not obtained any such exemption from the State Government under Section 5 of the 1972 Act. Since the 1972 Act applies to the appellant, the private respondents are, therefore, entitled to gratuity for the extended period of their service as well.

The relevant extract of the judgment is reproduced hereunder:-

“Having heard learned counsel for the petitioner and having perused the material placed on record, we are at one with the view taken by the High Court that mere exercise of option by an employee, to avail the benefit of extension of age of retirement to 60 years, could not have operated against his entitlement to gratuity; and exercising of such an option will not deprive the private respondents to gratuity unless and until the establishment i.e., the petitioner-University, was exempted in strict compliance of [Section 5](#) of the Payment of Gratuity Act, 1972, after prior approval of the State Government. There being no such exemption availed by the petitioner-University, the High Court has rightly not interfered with the principal part of the orders passed by the Controlling Authority and the Appellate Authority. On the other hand, the High Court has been rather considerate to the petitioner in reducing the rate of interest awarded to the private respondents from 10% to 6% p.a. In view of the above, no case for interference is made out. Hence, these special leave petitions stand dismissed. All the pending applications stand disposed of.”

12. The Supreme Court in the case of **G.B. Pant University of Agriculture and Technology (supra)**, had upheld the judgment of the Division Bench of the Uttarakhand High Court in the case of **G.B. Pant University versus Appellate Authority and others**, bearing Writ Petition No.395 of 2017 (M/S), decided on 01.11.2014. It would be apposite to



**LPA-1089-2025 (O&M)
and other connected cases**

-9-

reproduce the relevant extract of the judgment of the Division Bench hereunder:-

“25. Further another limb of the argument of learned counsel for the petitioner is that once the employee has opted to continue up to 60 years by invoking the benefit of the Government Order dated 19.12.1984 his action would be barred by the principle of submission and acquiescence, because once he has availed the benefit of extension of service then he is simultaneously be bound by the conditions of the benefit likely to be extended in pursuance to the option exercised by him. Although, the issue has been dealt to the said effect in the earlier paragraphs of the judgment, but still it is repeated that since in pursuance to the exercise of benefit of extension of 60 years of age of retirement, the Payment of Gratuity under the Act of 1972, was not intended to deprive gratuity to optees. Hence, exercising of an option will not deprive the private respondent of gratuity until and unless it has been made exempted after a prior approval of the State Government. In that view of the matter, I do not find any error committed by both the Courts below.”

13. We, therefore, have no hesitation to hold that the private respondents would be entitled to gratuity for the entire length of service rendered upto the age of 60 years for computation of gratuity. The judgment of the Single Bench is in consonance with law.

14. Consequently, all the above-mentioned Letters Patent Appeals being devoid of merit stand dismissed. All miscellaneous application(s) shall also stand disposed of accordingly.

**(ANUPINDER SINGH GREWAL)
JUDGE**

**(DEEPAK MANCHANDA)
JUDGE**

September 17, 2025
sonia gugnani

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No