

2025.PHHC.019050-DB



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

LPA-2008-2024 (O&M)

Date of decision: 10.02.2025

PUNJAB STATE CO-OPERATIVE SUPPLY & MARKETING
FEDERATION LTD. (MARKFED) AND ANR.

.....Appellants

Versus

THE APPELLATE AUTHORITY UNDER THE PAYMENT OF
GRATUITY ACT, 1972-CUM-ADDITIONAL LABOUR
COMMISSIONER, PUNJAB SAS NAGAR AND ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. Inder Preet Singh, Advocate;
Mr. Ravinder Singh, Advocate with
Mr. Abhay Nanda, Advocate, for the appellants.

SUDHIR SINGH, J.

CM-4777-LPA-2024

For the reasons given in the application, the same is allowed and the delay of 186 days in filing the appeal is condoned, subject to all just exceptions.

CM-783-LPA-2025

Allowed as prayed for and document Annexure P-4 is taken on record.

LPA-2008-2024

Challenge in the instant intra Court appeal is to the order dated 29.11.2023 passed by the learned Single Judge, whereby the writ petition filed by the appellant was dismissed.

2. Before the learned Single Judge, the appellants had laid challenge to the order dated 17.12.2019 passed by the Controlling Authority-cum-Assistant Labour Commissioner, Bathinda under the Payment of Gratuity Act, 1972 (for short 'the 1972 Act'), whereby an application filed by respondent No.2 claiming gratuity, had been allowed.

3. The factual position regarding respondent No.2 having served the appellant-department from 11.10.1973 till the date of his superannuation on 31.03.2009, is not disputed. Respondent No.2 was paid gratuity amount of Rs.3,50,000/-, whereas he claimed that he was entitled to the gratuity amount of Rs.6,02,927/-. The said stand of respondent No.2 was disputed by the appellant-Management by stating that respondent No.2 was governed by the Factory Act and not by the Common Cadre Rules of MARKFED and, therefore, he was rightly paid the maximum gratuity amount of Rs.3,50,000/-.

4. The Controlling Authority allowed the application filed by respondent No.2 vide its order dated 17.12.2019, holding him entitled to the balance gratuity amount of Rs.2,52,927/-, along with interest @ Rs.10% w.e.f. 01.04.2009 till the date of actual payment. The appellant-Management had unsuccessfully challenged the aforesaid order before the Appellate Authority-cum-Additional Labour Commissioner, Punjab SAS Nagar. The challenge to the order dated 31.05.2021 passed by the Appellate Authority-cum-Additional Labour Commissioner, Punjab SAS Nagar, was negated by the learned Single Judge, while dismissing the writ petition.

5. Learned counsel appearing for the appellants has vehemently argued that respondent No.2 was governed by the Factory Act and, therefore, he was not entitled to the gratuity amount as claimed by him. It is further argued that respondent No.2 had retired prior to the enhancement of the gratuity ceiling from Rs.3.50 Lakh to Rs.10.00 Lakh and, therefore, he is not entitled to the gratuity amount as claimed by him. It is yet further argued that the case of respondent No.2 is not covered by the decision rendered by the learned Single Judge in CWP-15363-2011 – Nathu Ram and others Vs. State of Punjab and others, which was so relied upon by the learned Single Judge, while passing the order impugned herein. Lastly, it is argued that as per the proceedings dated 28.01.2019 of the Committee consisting of AMD (G), CM(ERP), CAO, Dy. CM(P) & Law Officer, Markfed, constituted for drafting a uniform policy, it was resolved that the employees of Markfed were not be entitled to the benefit of enhanced gratuity of Rs.10 Lakh from 01.01.2006 and rather the same would be available to them w.e.f. 24.05.2010 and the difference, if any, shall be calculated on the basis thereof. It is, thus, argued that in terms of the said resolution, respondent No.2 is not entitled to the relief granted by the learned Single Judge.

6. We have heard the learned counsel for the appellant and have also gone through the impugned judgment and decree.

7. The only question that arises for consideration by this Court is whether the order passed by learned Single Judge, requires any interference.

8. While allowing the writ petition the learned Single Judge, has relied upon a similarly circumstanced case i.e., CWP-15363-2011 titled as Nathu Ram and others Vs. State of Punjab and others, and held as under:-

“12. A perusal of the impugned orders would show that the claim of respondent No.2 has been allowed, primarily relying upon a judgment rendered by this Court in CWP No.15363 of 2011 titled as “Nathu Ram and Others versus State of Punjab and Others”, which was also a case pertaining to the employees of the Punjab State Cooperative Supply & Marketing Federation Limited (MARKFED), i.e. petitioner in the instant case. It is not disputed that respondent No.2 has remained in continuous employment of petitioner, w.e.f. 11.10.1973 up to 31.03.2009, when he retired from service upon attaining the age of superannuation.

In the case of Nathu Ram (supra), this Court held as under:-

“13. Coming now to the second argument of learned counsel for respondent-MARKFED, though, without doubt, MARKFED being an independent entity, the instructions and policies of the Punjab Government can only be made applicable to it upon adoption by MARKFED itself, however, the stand taken by the respondents in their reply itself is contrary to the letter dated 09.10.2011, which has been produced in Court and has not been denied by the respondents, even after the matter was adjourned on 17.10.2014.

The letter reads as under:-

“The Punjab State Cooperative Supply Marketing Federation Limited Sector-35-B Chandigarh

(PERSONNEL DEPARTMENT)

No.EST/EAG-6/11/4120 Dated 19/10/2011

1. All the Officers of Markfed at H.O. Chandigarh.
2. All the District Managers, Markfed in the Punjab State

3. All General Managers/Managers, Markfed Plants/ Units in the State
4. O.S.D. (C), Markfed, Bathinda
5. Liaison Officer, Markfed, C-212, Defence Colony, New Delhi

Sub: Amendment in Rule 4.6 in Markfed Common Cadre Rules 1990

Dear Sir(s),

I am directed to address you on the subject noted above and to inform that as per decision taken by Board of Directors of Markfed vide agenda item No.4 in its meeting held on 17.02.2011 and as approved by Registrar Cooperative Societies Punjab vide memo no.RSS/MANDI/MS45-B/13163 dated 13.09.2011 following amendment is being made in Rule 46 of Markfed Common Cadre Rules 1990:-

Existing Provision	Amended Provision
On one' s retirement, under Rule 2.21 of these Rules or death an employee shall be granted gratuity of an amount equal to one month' s wages for each completed year of service of part thereof in excess of six months with the Markfed provided that the total amount of gratuity shall not exceed 15 times the amount of wages last drawn.	On one' s retirement, under Rule 2.21 of these rules or death an employee shall be granted retirement-cum-death gratuity as per rules/instructions in force and amended from time to time applicable to Punjab Govt. employees.

The above decision is applicable from the date of approval of Registrar, Cooperative Societies Punjab i.e. w.e.f. 13.09.2011. However the instructions issued by the State Govt. Vide No.3/33/09/3FPPC/879 dated 17.08.2009 with regard to enhancement of maximum limit of payment

of gratuity from Rs.3.50lacs to Rs.10.00 lacs will be applicable w.e.f. 1.1.2006.

Thanking you,

Yours faithfully,

Sd/-

Establishment Officer (C),

For Managing Director.”

Thus, even though the decision was applicable w.e.f. 13.09.2011, i.e. the amended provisions came into effect from that date, upon approval by the Registrar, yet, by a conscious decision taken, the enhancement in the amount of gratuity payable, upon the retirement of an employee, was made applicable from 01.01.2006, for employees of MARKFED, to whom the Common Cadre Rules apply.

Hence, it is obvious that once the Common Cadre Rules have been held by this Court to be applicable to the petitioners, the letters of the Punjab Government, Annexures P1 to P3 would also apply to them, in terms of MARKFEDs' own letter dated 19.10.2011, issued by respondent No.2.

14. As to why the respondents chose to file a reply contrary to the conditions of service given in the appointment letters of the petitioners and contrary to the decision taken by its own Board of Directors and as approved by the Registrar, Cooperative Societies, Punjab, is something which this Court cannot even begin to understand, except to say that either the reply has been filed in an extremely callous manner or, due to lack of funds or other reasons, MARKFED is now trying to backtrack on its decision, without any decision to the contrary taken by the competent authority, after 19.10.2011.

15. Thus, in the face of first, the terms and conditions of the petitioners' appointments and then in the face of a specific decision amending Rule 4.6 of the Common Cadre Rules, by which retirement-cum death gratuity payable to employees of MARKFED was to be on the same terms as the Punjab Government employees, and still further, with the decision of the Punjab Government dated 17.08.2009 having been made specifically applicable from 01.01.2006

to the employees of MARKFED, the stand of the respondents, taken in the Court, is to be rejected and is, in fact, depreciable.

Consequently, this writ petition is allowed.

The respondents are directed to pay the enhanced amount of gratuity of Rs.10 lacs to the petitioners, with interest @ 10% per annum from the date of retirement till the date that the payment is actually made. If, of course, a lesser amount of gratuity is due to any of the petitioners, on account of calculable gratuity, even as per the instructions dated 17.08.2009, no actually amounting to the maximum payable (Rs.10 lacs), then the actual amount payable would be paid to such petitioners. A speaking order would be passed in such a case, giving detailed reasons as to how the amount of gratuity calculable, even in terms of the letter dated 17.08.2009 of the Punjab Government and that of respondent No.2 dated 19.10.2011, does not amount to Rs.10 lacs.

In addition, each of the petitioners would also be paid costs of Rs.5,000/- by respondents No.2 and 3, which, if they so desire, they can recover from the persons responsible for filing a reply contrary to record before this Court, including from the Additional Managing Director, under whose signatures the reply was actually filed.

The enhanced amount of gratuity and interest be paid to the petitioners, within 2 months from the date of receipt of a certified copy of this order···”

13. Learned counsel for the petitioner has been unable to dispute the fact that in terms of the above extracted judgment rendered in the case of Nathu Ram (supra), the enhancement in the amount of gratuity payable, upon the retirement of an employee, was made applicable from 01.01.2006, for employees of MARKFED. Concededly respondent No.2 (Ishwar Chander) retired on 31.03.2009, therefore, he was entitled to his due amount of gratuity, which has been rightly allowed by the authorities below.”

9. This Court has put a specific query to the learned counsel appearing for the appellants as to whether the decision rendered by the learned Single Judge in CWP-15363-2011 has been altered or

modified in an appeal or revision, but the answer is in negative, meaning thereby that the said decision has attained finality. Merely because the meeting of the Committee consisting of AMD (G), CM(ERP), CAO, Dy. CM(P) & Law Officer, Markfed for drafting a uniform policy regarding the payment of gratuity held on 28.01.2019, resolved that the enhanced gratuity of Rs.10 Lakh would be payable w.e.f. 24.05.2010 is no ground to set aside the order passed by the learned Single Judge, which is a judicial verdict on the issue in question and the same has attained finality.

10. No other point has been urged.
11. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.
12. Pending application(s), if any, shall stand disposed of.

**[SUDHIR SINGH]
JUDGE**

**[SUKHVINDER KAUR]
JUDGE**

10.02.2025

himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No