





**CWP-552-2016 & connected cases 3****HARSIMRAN SINGH SETHI J. (ORAL)**

1. By this common order, eight writ petitions, the details of which have been given in the heading, are being disposed of as all these petitions involve the same question of law on similar facts.

2. In the present bunch of writ petitions, the grievance being raised by the petitioner is that by treating the petitioner-Establishment as a seasonal Establishment, the order has been passed qua the claim raised by the respondent-employees for the grant of gratuity under the Payment of Gratuity Act, 1972.

3. Learned counsel for the petitioner has argued that Bhakra Beas Management Board (BBMB) is not a seasonal Establishment hence, the order passed by the authorities concerned by treating the petitioner as a seasonal Establishment is arbitrary and illegal.

4. Before proceeding further, during the course of hearing, learned counsel for the petitioner was asked as to under what circumstances, the respondents were appointed.

5. Learned counsel for the petitioner submits that during the rainy season, there is a need for extra hand to cope up with the work of the petitioner-Establishment hence, the respondent-employees were employed so as help the Establishment during the rainy season.

6. Keeping in view the said stand of the petitioner as noticed hereinbefore, the issue raised in the present writ petition is being decided with regard to the payment of gratuity to the respondent-employees under the Payment of Gratuity Act, 1972.

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7. The grievance of the petitioner is that the petitioner is not a seasonal Establishment hence, the order passed by the authorities concerned by treating the petitioner as seasonal Establishment, is liable to be set aside as the petitioner-Establishment continuously in operation throughout the year. The said argument needs to be addressed keeping in view the various facts.

8. No doubt, the petitioner-Establishment is in operation throughout the year qua various activities being undertaken for the purpose for which, the petitioner was established, but once, during the rainy season, the workload of the petitioner-Establishment increases due to which, the employees are recruited to cope up with the increased workload and after the end of the said season, their services are dispensed with hence, qua the workmen, who are only recruited during rainy season, the petitioner has to be treated as a Seasonal Establishment.

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, determines its nature qua the said employment hence, the order which has been passed by the

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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.

11.           No other argument was raised.

12.           Keeping in view the above, the findings which have been recorded by the authorities concerned while exercising powers under the Payment of Gratuity Act, 1972 needs no interference at the hands of this Court and the writ petitions are accordingly dismissed.

13.           A photocopy of this order be placed on the files of other connected cases.

**January 21, 2025**  
*harsha*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

Whether speaking/reasoned : Yes  
Whether reportable           : No