

BEFORE DR S.P. KATYAL, HON'BLE MEMBER, H.P. PRIVATE EDUCATIONAL
INSTITUTIONS REGULATORY COMMISSION, SHIMLA-171009.

Case No.: 08 of 2020
Instituted on: 09.06.2020
Decided on: 25.06.2020

In the matter of:

Mr. M.L. Aggarwal, Ex Superintendent House No. 135, Ward No.12, Ekta
Colony, Bangran Road, Paonta Sahib H.P.-173025.

.....Petitioner

Versus

B.K.D College of Education for women Paonta Sahib (H.P)

.....Respondent

ORDERS

A complaint from Mr. M.L. Aggarwal, Superintendent in B.K.D. College of Education, Paonta Sahib H.P was received in the Commission on 17/07/2018 regarding non payment of gratuity by management of the BKD College of Education on his superannuation. Upon receiving the complaint reply from the college was sought by the Commission. Principal of BKD College of education appeared in person. However Mr. M.L. Aggarwal could not appear due to his advanced age of 82 years. Keeping in view his growing age a personal hearing was held in the campus of B.K.D College of Education on 14.11.2018, where both the parties were present. College was represented by Chairman, Principal and director of BKD group of Institutions. Mr. M.L. Aggarwal demanded relief in the form of gratuity after retirement or to get re-employed in the college. President of the college assured that issue will be resolved and Commission will be apprised of the same before 30th Nov, 2018. Mr. M.L. Aggarwal again represented the matter as he had not received any relief by then. The Commission directed respondent College to provide the copies of agreement which they failed to provide. Hearing was fixed and college was directed to pay the dues as per the norms fixed by Government for employees of private Institutions. On 16/03/2020 a letter was received from Mr. M.L. Aggarwal that College has not cleared the payment of his dues amounting to Rs. 4.66.987. Hearing was fixed for 11/06/2020. None appeared on 11/06/2020. BKD College was represented by the counsel and Mr. M.L. Aggarwal appeared in person on video conferencing on 15/06/2020.

Arguments

Mr. M.L. Aggarwal said that he was an employee of BKD College duly appointed and rendered continues service for 23 years to the respondent college and was not paid the gratuity and said that as per H.P Notification No. EDN-A-Chha(7)6/99-111(Loose) dated 20-12-2004. The college was bound to obey the rules of Government of H.P. The counsel for BKD College argued that Mr. M.L. Aggarwal had already claimed gratuity once he retired from Government service. Moreover College is not bound to give gratuity as per Act 1972 as

Mr. M.L. Aggarwal has not retired as per the procedure and there are no rules of gratuity. He referred pension compilation CCS pension Rules (51).

Findings

M.L. Aggarwal joined BKD College of Education on 20/10/1994 and served the college continuously for 23 years. Keeping his advanced age in view Mr. M.L. Aggarwal attained his retirement/ resignation. Hence, from the evidence and statements made it is evident that Mr. M.L. Aggarwal rendered a continuous service to BKD College of Education. Section (4) of gratuity Act 1972 and entitles him rightfully for obtaining gratuity from respondent College. Payment of gratuity Act 1972 applies to establishments employing 10 persons or more and the main purpose for enacting this act is to provide social security to work man after retirement, whether retirement is result of superannuation or physical disablement or impairment of vital part of the body. Therefore the payment of gratuity Act 1972 is an important social security legislation to wage earning population in Industries factories and establishments. Respondent College employs more than 10 persons. Therefore falls very much within the ambit of payment of gratuity Act 1972. Gratuity rules have not been framed by Government.

Orders

Mr. M.L. Aggarwal is entitled to receive the gratuity. However the jurisdiction of the Commission restricts directly to intervene in the matter but its recommended that the complainant should approach the controlling authority and any other appropriate forum to get the desired relief. Government of Himachal Pradesh need to frame appropriate gratuity rules as per the Gratuity Act 1972. Application stand disposed off.

Copy of orders issued separately and the same be supplied to the concerned parties and be uploaded on the website of the Commission.

The case is hereby disposed off and record is consigned to the record room.

Dated: 25.06.2020

Sd/-
(Dr. S.P. Katyal)
Member