

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).6290/2003

(From the judgment and order dated 16/11/2002 in CR No. 4045/2002
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

HARYANA VIDYUT P.NIGAM LTD.& ANR.

Petitioner(s)

VERSUS

RAM CHANDER

Respondent(s)

(With prayer for interim relief and office report)
(For final disposal)

WITH SLP(C) NO. 26696 of 2004

(With prayer for interim relief and office report)

Date: 13/09/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE TARUN CHATTERJEE

HON'BLE MR. JUSTICE P. SATHASIVAM

For Petitioner(s) Mr. Neeraj Kumar Jain, Adv.

Mr. Bharat Singh, Adv.

Mr. Sanjay Singh, Adv.

Mr. Sandeep Chaturvedi, Adv.

Mr. Ugra Shankar Prasad, Adv.

For Respondent(s) Mrs.K. Sarada Devi, Adv.(NP)

Dr. Ramesh K. Haritash, Adv.

Dr. Kailash Chand, Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

The appeals are disposed of but without any order as to costs.

[Usha Bhardwaj]

Court Master

[Phoolan Wati Arora]

Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4251 OF 2007

(Arising out of S.L.P. (Civil) No. 6290 of 2003

Haryana Vidyut P. Nigam Ltd. & Anr.

Appellant(s)

Versus

Ram Chander

Respondent(s)

with Civil Appeal No.4252/2007 @ SLP(C) NO.26696/2004

ORDER

Leave granted.

We have heard learned counsel for the parties.

This appeal is directed against the judgment and order dated 16th November, 2002 passed by the High Court of Punjab and Haryana at Chandigarh in Civil Revision No.4045 of 2002 whereby the High Court has affirmed the orders of the authorities under the Payment of Gratuity Act for payment of gratuity to the respondents. At the time of hearing of the appeal the learned advocate appearing on behalf of the appellants Haryana Vidyut Parsaran Nigam Ltd. & Anr. draws our attention to a Notification dated 28th November, 2006 which is as follows:

"No.16/51/2005-4 Power- In exercise of the powers conferred under section-5 of by sub-sections (1) and (2) read with sub-section (3) of Payment of Gratuity Act, 1972 (39 of 1972) The Government of Haryana hereby exempts the erstwhile Haryana State Electricity Board and its successor entities, Haryana Vidyut Parsaran

:2:

Nigam Limited, Haryana Power Generation Corporation Limited, Dakshin Haryana Bijli Vitran Nigam Limited and Uttar Haryana Bijli Vitran Nigam Limited and the employees from the operation of the provisions of this Act with retrospective effect i.e. from the date of notification of the said Act. This exemption is applicable in respect of the employees whose service conditions are regulated by the Punjab Civil Services Rules (as amended from time to time) in the matter of pensionary benefits including gratuity."

On a plain reading of this notification, it appears that all the employees have been taken out of the operation of the provisions of this Act with retrospective effect i.e. from the date of notification of the said Act. This exemption is applicable in respect of the employees whose service conditions are regulated by the Punjab Civil Services Rules (as amended from time to time) in the matter of pensionary benefits including gratuity. This affidavit has been filed in the month of January, 2007 in this Court annexing the copy of the notification. However, the respondents have not challenged the validity of the notification. Therefore, without going into the merits of the orders passed by the High Court as well as by the authority we dispose of these appeals giving an opportunity to the respondents either to challenge the

:3:

notification in accordance with law or to approach the authorities under the Punjab Civil Services Rules, 1953 for the payment of gratuity, if not already paid. In view of the aforesaid facts the orders impugned are set aside.

The appeals are disposed of but without any order as to costs.

.....J.

[TARUN CHATTERJEE]

.....J.
[P. SATHASIVAM]

NEW DELHI,
SEPTEMBER 13, 2007.