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Applicability of Minimum Wages Act and Payment of Gratuity Act to Teachers

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ABSTRACT

The "Applicability of the Minimum Wages Act and Payment of Gratuity Act to Teachers" explores the legislative framework governing the compensation and post-employment benefits of teachers in India. Historically, teachers were excluded from these Acts due to their classification as professionals rather than employees. However, recent judicial interpretations and amendments have broadened the scope of these legislations. This paper examines the evolution of the legal definitions within the Minimum Wages Act, 1948, and the Payment of Gratuity Act, 1972, to include teachers, assessing the implications for educational institutions and teachers' welfare. Through an analysis of case laws, statutory provisions, and policy changes, the study highlights the challenges and benefits of extending these labor protections to teachers. The findings suggest that while the inclusion under these Acts could significantly improve teachers' financial security and professional stability, it also necessitates a re-evaluation of employment contracts and institutional budgets. The study concludes with recommendations for policymakers and educational administrators on implementing these changes to ensure compliance and promote equitable treatment of teachers within the workforce.

***Keywords**: Wages, Gratuity, Teachers, Welfare, Labour.*

I. INTRODUCTION

Gratuity is a kind of retrial benefit like Pensions, Provident funds etc. It is also said that in its etymological sense gratuity is a gift especially for services rendered or return for favours received[3]. In other words, it is a gratuitous payment given to an employee on attaining superannuation or physical disablement etc. The main purpose of the gratuity is to help the employee after the retirement. To meet the post-retiral expenses, it is a kind of assistance to an employee. When employed person becomes unemployed after termination of his service, he will be in need of financial protection. Because of his old age, incapacity etc. he may not be in a position to work again to feed himself and his dependants. Then gratuity protects against loss

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[3] Ahmedabad Primary Teachers' Association v. Administrative officer, AIR 2004 SC 1426, (2004) 1 SCC 755 at 756

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of income to some extent.

In *Calcutta Insurance Co. Ltd. v. Their Workmen*[4], the Hon'ble Supreme Court said that the 'Gratuity' is a reward for good, efficient and faithful service rendered for a considerable period and it is earned by an employee for a long and meritorious service[5]. The term denotes a sum promised by an employer to pay the employee at the end of the service. A gratuity which is a gift and not in the nature of a debt which would be legally revocable by the ex-employee[6]

The Payment of Gratuity Act, 1972 is a piece of social welfare legislation. It is intended to give benefit to employees working in establishments. Thus the provisions of the Act are required to be construed liberally. They should be so construed that the beneficial intention of the legislature is not frustrated by a strict or narrow interpretation and the benefit of the Act reaches the maximum possible persons. This is settled position in law[7].

The main aim of the gratuity, as specified in the preamble of the Act, is to protect the working class people especially after the termination of their service either because of superannuation, physical disability etc. Preamble of the Act states as follows: " An Act to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto."

While teaching is considered to be one of the noblest professions and a status equivalent to God has been conferred on a teacher since ancient times in India, their economic rights hang in a balance. A teacher is responsible to impart knowledge and skill to the children and thus they play a significant role in the development of the country. It is quite disappointing and unfortunate that they are not considered to be "employee'' within the meaning of S 2 (e) and S 2 (i) of the Payment of Gratuity Act, 1972 and Minimum wages Act respectively and therefore, not entitled to gratuity benefits at the end of their service.

The decision of the Hon'ble Supreme Court in the case of *Ahmedabad Private Primary Teachers' Association vs. Administrator Officers & Others*[8] has dropped a thunderbolt on the millions of teachers of the private schools and colleges all over the country. The Hon'ble Apex court, in the above said case, held that teachers are not entitled to gratuity benefit under the Payment of Gratuity Act, 1972 at the end of their service. The corollary of this decision is that

[4] Calcutta Insurance Co Ltd v Their Workmen, AIR 1967 SC 1286
[5] Ibid
[6] Secretary of State v. Jamuna Das, AIR 1932 Patna 311
[7] Premlata Digambar Raodeo v. Principal, St. Philomina's Convent High School, 1997 II LLJ 1050
[8] Ahmedabad Primary Teachers' Association v. Administrative officer, AIR 2004 SC 1426

many teachers, who have worked for decades and rendered their valuable service, have to retire without gratuity benefits. Managements of unaided educational institutions are now falling back on this decision to deny gratuity to retired teachers. This is the plight of many teachers in unaided educational institutions across the country. It is needless to say that compare to other employees, like engineers, doctors etc., teachers, especially in private educational institutions, are underpaid. Hence, this is the category of employees which requires more protection. The decision in the aforesaid case is the consequence of the ambiguity in the definition of the term "employee" in the Act.

The meaning of the term 'employee' has been given under section 2(e) of the Act. It reads as follows: " 'employee' means any person (other than an apprentice) employed on wages, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semi-skilled or unskilled manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied and whether or not such a person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or any other rules providing for payment of gratuity"

In the above mentioned case, the appellant and the *amicus curiae* appointed by the Hon'ble Supreme Court contended that a beneficial, purposeful and wide interpretation should be given to section 2(e) of the Act particularly, because after the1984 amendment even employees in managerial or administrative capacity and without any bar or limit on their salaries or wages were brought within the definition of 'employee' to extend the benefit of gratuity to them. It was also contended by *amicus curiae* that the words "skilled", "semi-skilled" or "unskilled" did not qualify the words "manual", "supervisory", "technical" or "clerical". That rather all the said seven words, because of the commas between them, had to be read disjunctively and they all qualified the word 'work" mentioned at the end of those words.

But the respondent urged that the Act being one of the labour legislations, hence, the definition of 'employee' therein should be considered in the light of the definition of similar expressions in other labour legislations. But, it has been held that even on a plain construction of the words and expressions used in the definition section 2(e) of the Act, 'teachers' who are mainly employed for imparting education are not intended to be covered for extending gratuity benefits under the Act. The teachers do not answer the description of 'employees' who are "skilled", "semi-skilled" or "unskilled". These three words used in association with each other intend to convey that a person who is "unskilled" is one who is not "skilled" and a person who is "semi-

skilled" may be one who falls between the two categories i.e. "skilled" and "unskilled", meaning that he is neither fully skilled nor unskilled.

Hence, the word "unskilled" cannot be understood disassociated from the words "skilled" and "semi-skilled' to read and construe it to include in it all categories of employees irrespective of the nature of the employment. If the legislature intended to cover all categories of employees for extending the benefit of gratuity under the Act, specific mention of categories of employment in the definition clause was not necessary at all.

The Hon'ble Supreme Court further said that even if all the words are read disjunctively or in any other manner, trained or untrained teachers do not plainly answer any of the descriptions of the nature of various employments given in the definition clause and also teachers are not employed in "managerial" or "administrative" capacity. Even if they do some administrative work occasionally as part of their duty with teaching, since their main job is imparting education, they cannot be held to be employed in "managerial" or "administrative" capacity. Thus, the teachers are clearly not intended to be covered by the definition of 'employee' under section 2(e) of the Payment of Gratuity Act, 1972.

To support this conclusion, Hon'ble Supreme Court has referred to the definition of the term 'employee' under section 2 (f) of the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 which reads as under: 'employee' means any person who is employed for wages in any kind of work manual or otherwise, in or in connection with the work of an establishment, and who gets his wages directly or indirectly from the employer…'. This definition clearly manifests the intention of the legislature to cover even a teacher under a definition of the term 'Employee', for the expressions used in the definition are "any person" and "any kind of work" and also "manual or otherwise" etc.

Accordingly, a Bill, The Payment of Gratuity (Amendment) Bill, 2006, was introduced in the Council of States (Rajya Sabha) for the same.

The new definition of the term "employee" in the proposed amendment runs as follows: "employee" means any person (other than an apprentice) employed on wages, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, school, college, university, to do any skilled, semi-skilled or unskilled, manual, supervisory, technical, teaching or clerical work, whether the terms of such employment are express or implied, and whether or not such person is employed in a managerial or administrative capacity, but does not include such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity." The object

and reasons of this amendment as mentioned therein are as follows: The definition of "employee" as in Section 2 (e) of the Act covers any establishment, factory, mine, oilfield, plantation, port, railway company or shop to do any skilled, semiskilled, or unskilled, manual, supervisory, technical or clerical work and not those performing teaching jobs in schools, colleges or universities. This has led to different interpretations as to the applicability of the provisions of the Act to the large sections of teaching professionals resulting in denial of benefit of gratuity on superannuation, etc. to this professional community. In order to rectify this anomaly and to extend benefit of Gratuity to the teaching community, specific amendments to the provisions of the Act have become necessary to bring the schools, colleges and universities and those performing teaching jobs within the purview of the Act. There is another Bill which has been introduced in the House of People (Lok Sabha) i.e. 'The Payment of Gratuity (Amendment) Bill, 2007' in which the term "employee" has been defined as follows:

"employee" means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of factory, mine, oilfield, plantation, port, railway company, shop or other establishment, to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity**.**

It is also quite disappointing and unfortunate that the Supreme Court, in the case of *Haryana Unrecognized School Association v. State of Haryana*[9] has not considered teachers to be eligible to claim Minimum Wages under the Minimum Wages Act. The Reasons provided by the Honourable Court was that a teacher does not fall under the definition of 'Employee' as provided under section 2(i) of the Act. The said definition says:

"Employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of the Armed Forces of the Union.

[9] Haryana Unrecognized School Association v. State of Haryana, AIR 1996 SC 2108

The Hon'ble Court held that a teacher does not do any of the class of works specified in the definition i.e. Skilled, Unskilled, manual or Clerical and hence does not comes under the ambit of Section 27[10]of the Minimum Wages Act which provides the appropriate government the authority to include any class of employees under the scheduled employment and thus make them eligible to claim minimum wages. Thus the Court concluded that since a teacher is not an employee, he/she cannot be included in the scheduled employment as only an 'employee' under the Act can be included under the scheduled employment. Although the Law is now settled after the aforementioned judgment, but with utmost respect, the author begs to differ form the conclusion of the Honourable Supreme Court.

The Court in the present matter did not consider the fact that the Minimum wages Act is social benefit legislations and thus the court must have undertaken the course of liberal interpretation of the definition of 'employee' rather than strict interpretation as the aim of the legislation is to extend benefit to maximum classes of society[11].

The dictionary meaning of skill is:

1. The ability coming from one's knowledge, practice, aptitude etc., to do something well.
2. Competent excellence in performance; expertness, dexterity;
3. A craft, trade or job requiring manual dexterity or special training in which a person has competence and experience
4. Understanding, discernment.

Further the Oxford Dictionary gives the meaning of skill as practiced ability, expertness. Now as per the dictionary meaning of skill, the work rendered by the teachers has to be treated to be within the purview of the definition of 'employee' as defined under Section 2(i) of Minimum Wages Act. It would be erroneous to say that a teacher does not require any skill to teach in the class. Teaching is highly skilled job. A Teacher has to acquire knowledge," obtain technical knowledge, understanding and impart his knowledge to the students of high quality[12].

[10] Section 27 of Minimum Wages Act, 1948 *Power of State Government of add to Schedule:* The appropriate Government, after giving by notification in the Official Gazette not less than three month's notice of its intention so to do, may, by like notification, add to either Part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall in its application to the State be deemed to be amended accordingly.

[11] Bhikusa Yamasa Kshatriya and Anr. v. Sangamner Akola Taluka Bidi Kamgar Union and Ors., [1963] 2 SCC 242 where the court held that while construing the provisions of a statute like Minimum wages Act a beneficial interpretation has to be preferred which advances the object of the Act. see also: Andhra University v. Regional Provident Fund Commissioner of A.P. AIR 1986 SC 463

[12] General Educational Academy v. Sudha Vasudeo Desai, 2001 (89) FLR 1015 (Bom)

In the case of *G.B. Pant University of Agriculture and Technology, Pantnagar, Nainital v. State of Uttar Pradesh and Ors.*[13] The court while declaring teachers in private colleges as employees observed:

"As regards interpretation widest possible amplitude shall have to be offered in the matter of interpretation of statutory documents under industrial jurisprudence. The draconian concept is no longer available. Justice social and economic, as noticed above ought to be made available with utmost expedition so that the socialistic pattern of the society as dreamt of by the founding fathers can thrive and have its foundation so hat the future generation do not live in the dark and cry for social and economic justice. I, therefore, in the facts and circumstances of this petition and the provisions of the Payment of Gratuity Act, hold and declare that the definition of "employee", Section 2(e) of the Payment of Gratuity Act includes and covers in its compass the class of teachers employed in an establishment of a school and are therefore entitled to the benefits of payment of gratuity in accordance with provisions of the Act."

Although the abovementioned case does not deals with the Minimum Wages Act, 1948 and in fact relates to definition of employee under the Payment of Gratuity Act, but it must be noted that the definition of employee under both the Acts are very similar and the ingredients of both the definitions are same i.e. the person must be performing skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work to be called as'employee' under this Act. Hence, the definitions under the two Acts can be considered as *pari materia*[14] and thus an analogy from the *G.B. Pant University Case* can be drawn. Furthermore, it is noteworthy that teachers have also been excluded from the ambit of the Payment of Gratuity Act in the case of *Ahmedabad Primary Teachers' Association v. Administrative officer*[15], and also form the definition of 'workman' in the Industrial Disputes Act in the case of *A. Sunderambal v. Govt. of Goa, Daman and Diu*[16]. Thus by their verdicts in these judgments, the Supreme Court has closed all the doors for teachers where they can claim relief. This is extremely unfair and arbitrary as a teacher, for all the purposes is treated as an employee as he has to be bound by the orders of the principle of

the school, he is subjected to disciplinary proceedings and can also be terminated from service. This would indicate that a teacher is considered as a wage earner for all the purposes, but when

[13] G.B. Pant University of Agriculture and Technology, Pantnagar, Nainital v. State of Uttar Pradesh and Ors, AIR 2000 SC 2695; Premlata Digambar Raodeo v. Principal, St. Philomina's Convent High School, 1997 II LLJ 1050

[14] PARI MATERIA: Of the same matter; on the same subject; as, laws pari materia must be construed with reference to each other.

[15] Ahmedabad Primary Teachers' Association v. Administrative officer, AIR 2004 SC 1426

[16] A. Sunderambal v. Govt. of Goa, Daman and Diu, AIR 1988 SC 1700

it comes to his rights to claim minimum wage, or gratuity or he has disputes with their employer i.e. the school authorities, the law has nothing to offer to him. Thus in other words, a teacher is being denied the benefits available to all wage earners, which in no circumstances can be justified.

II. PRESENT STATUS OF THE ACT

The Payment of Gratuity Act, 1972 provides for payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishment and for matters connected therewith or incidental thereto. Clause (c) of subsection (*3*) of section 1 of the said Act empowers the Central Government to apply the provisions of the said Act by notification in the Official Gazette to such other establishments or class of establishments in which ten or more employees are employed, or were employed, on any day preceding twelve months. Accordingly, the Central Government had extended the provisions of the said Act to the educational institutions employing ten or more persons by notification of the Government of India in the Ministry of Labour and Employment.

The Hon'ble Supreme Court in its judgment in *Ahmedabad Private Primary Teachers' Association vs. Administrative Officer and others*[17] had held that if it was extended to cover in the definition of 'employee', all kind of employees, it could have as well used such wide language as is contained in clause (*f*) of section 2 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 which defines 'employee' to mean any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment. It had been held that non-use of such wide language in the definition of 'employee' under clause (*e*) of section 2 of the Payment of Gratuity Act, 1972 reinforces the conclusion that teachers are clearly not covered in the said definition.

Keeping in view the observations of the Hon'ble Supreme Court, it was proposed by the Lok Sabha to widen the definition of 'employee' under the said Act in order to extend the benefit of gratuity to the teachers. Accordingly, the Payment of Gratuity (Amendment) Bill, 2007 was introduced in Lok Sabha on the 26th November, 2007 and same was referred to the Standing Committee on Labour which made certain recommendations. After examining those recommendations, it was decided to give effect to the amendment retrospectively with effect from the 3rd April, 1997, the date on which the provisions of the said Act were made applicable to educational institutions.

[17] Ahmedabad Primary Teachers' Association v. Administrative officer, AIR 2004 SC 1426

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Accordingly, the Payment of Gratuity (Amendment) Bill, 2007 was withdrawn and a new Bill of Payment of Gratuity (Amendment) Bill, 2009 having retrospective effect was introduced in the Lok Sabha on 24th February, 2009. However, due to dissolution of the Fourteenth Lok Sabha, the said Bill was lapsed. Therefore, another Bill of Payment of Gratuity (Amendment) Bill, 2009 was produced in the Lok Sabha on 12th November, 2009 which the Lok Sabha has passed. The Payment of Gratuity (Amendment) Bill, which aims at amending definition of employees in the 1972 legislation for covering teachers in private institutions with retrospective effect from April 3, 1997, was passed in the Rajya Sabha. It was approved by Lok Sabha on December 16, 2009.

Therefore, now, as per Payment of Gratuity (Amendment) Act, 2009 teachers are entitled for gratuity benefits at the end of their service.

III. LEGAL PROVISIONS

(A) Section 2(e) of the Payment of Gratuity Act, 1972

"Employee" means any person (other than an apprentice) employed on wages, not exceeding one thousand rupees per mensem, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, and whether or not include any such person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other act or by any rules providing for payment of gratuity.

(B) Section 2(e) of the Payment of Gratuity (Amendment) Act, 2009

"Employee" means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.

(C) Section 2 (I) of Minimum Wages Act, 1948

"Employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired,

adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of the Armed Forces.

IV. JUDICIAL TREND

In *May and Baker (India) Ltd. v Their Workmen*[18], Justice Wanchoo observed that as 'workman' was defined as any person employed in any industry to do any skilled or unskilled manual or clerical work for hire or reward. Therefore, doing manual or clerical work was necessary before a person could be called a workman. This definition came for consideration before industrial tribunals and it was consistently held that the designation of the employee was not of great moment and what was of importance was the nature of his duties. If the nature of the duties is manual or clerical, then the person must be held to be a workman. On the other hand if manual or clerical work is only a small part of the duties of the person concerned and incidental to his main work which is not manual or clerical, then such a person would not be a workman. It has, therefore, to be seen in each case from the nature of the duties whether a person employed is a workman or not, under the definition of that work as it existed before the amendment of 1956. In that case this Court had to consider the question whether a person employed by a pharmaceutical firm as a representative (for canvassing orders) whose duties consisted mainly of canvassing

orders and any clerical or manual work that he had to do was only incidental to his main work of canvassing could be considered as a workman as defined in the Act.

In *University of Delhi and Anr v. Ram Nath*[19] a bench consisting of three learned judges of this Court held that the University of Delhi, which was an educational institution and Miranda House, a college affiliated to the said University, also being an educational institution would not come within the definition of the expression 'industry' as defined in Section 2(j) of the Act. Justice Gajendragadkar held that the educational institutions which were predominantly engaged in teaching could not be considered as industries within the meaning of the said expression in Section 2(j) of the Act.

The above decision came up for consideration in *Bangalore Water Supply and Sewerage*

[18] May and Baker (India) Ltd. v Their Workmen, (1961) II LLJ 94 SC
[19] University of Delhi and Anr v. Ram Nath, (1963) II LLJ 335 SC

Board, etc. v. R. Rajappa and Ors[20] before a larger bench of this Court. In that case the decision in *University of Delhi and Anr. v. Ram Nath*[21], was overruled. Krishna Iyer, J. who delivered the majority judgment observed at page 283 of the Report thus:

"Where a complex of activities, some of which qualify for exemption, others not, involves, employees on the total undertaking, some of whom are not 'workmen' as in the University of Delhi case or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur, will be true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status."

The question again came for consideration in *Miss A. Sundarambal v Government of Goa, Daman and Diu and Others*[22]. In the Instant case, the appellant, Miss A. Sundarambal, was appointed as a teacher in a school conducted by the Society of Franciscan Sisters of Mary at Caranzalem, Goa. Her services were terminated by the Management by a letter. After she failed in her several efforts in getting the order of termination cancelled, she raised an industrial dispute before the Conciliation Officer under the Act. The conciliation proceedings failed and the Conciliation Officer reported accordingly to the Government of Goa, Daman and Diu. On receipt of the report the Government considered the question whether it could refer the matter for adjudication under Section 10(1)(c) of the Act but on reaching the conclusion that the appellant was not a 'workman' as defined in the Act which alone would have converted a dispute into an

industrial dispute as defined in Section 2(k) of the Act, it declined to make a reference. Thereupon, the appellant filed a writ petition before the High Court of Bombay, Panji Bench, Goa for issue of a writ in the nature of mandamus requiring the Government to make a reference under Section 10(1)(c) of the Act to a Labour Court to determine the validity of the termination of her services. After hearing the parties concerned, the High Court dismissed the writ petition holding that the appellant was not a workman.

Two questions arise for consideration in this case; (1) whether the school, in which the appellant was working, was an industry, and (2) whether the appellant was a 'workman' employed in that industry.

The Hon'ble Supreme Court after considering the matter explained the term workmen. It was

[20] Bangalore Water Supply and Sewerage Board, etc. v. R. Rajappa and Ors, (1978) I LLJ 349 SC
[21] University of Delhi and Anr v. Ram Nath, (1963) II LLJ 335 SC
[22] Miss A. Sundarambal v Government of Goa, Daman and Diu and Others, AIR 1988 SC 1700

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held that In order to be a workman, a person should be one who satisfies the following conditions : (i) he should be a person employed in an industry for hire or reward; (ii) he should be engaged in skilled or unskilled manual, supervisory, technical or clerical work; and (iii) he should not be a person falling under any of the four clauses, i.e., (i) to (iv) mentioned in the definition of 'workman' in Section 2(s) of the Act. The definition also provides that a workman employed in an industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, an industrial dispute, or whose dismissal, discharge or retrenchment has led to that dispute.

The Hon'ble court further pointed out that if an employee in an industry is not a person engaged in doing work falling in any of these categories, he would not be a workman at all even though he is employed in an industry. The question for consideration before the Hon'ble court was whether a teacher in a school falls under any of the four categories, namely, a person doing any skilled or unskilled manual work, supervisory work, technical work or clerical work. The court pointed out that if he does not satisfy any one of the above descriptions he would not be workman even though he is an employee of an industry as settled by this Court in *May and Baker (India) Ltd. v. Their Workmen*[23]

The Hon'ble Supreme Court while dismissing the petition observed that the teachers employed by educational institutions whether the said institutions are imparting primary, secondary, graduate or post-graduate education cannot be called as 'workmen' within the meaning of Section 2(s) of the Act.

In *Ahmedabad Pvt. Primary Teachers' Association v Administrative Officer and Ors*[24], Petition was filed by a teacher employed in school run by Ahmedabad Municipal Corporation claiming payment of gratuity before the Hon'ble High Court of Gujarat. But it was dismissed by the Hon'ble High Court holding that teachers as a class not being covered by definition of "employee" under Section 2 (e), were disentitled to claim gratuity.

The Hon'ble High Court of Gujarat not only rejected the claim of the teacher for payment of gratuity but has decided an important question of law against the teachers as a class that they do not fall within the definition of 'employee' as contained in Section 2(e) of the Act and hence can raise no claim to gratuity under the Act and therefore, Appeal was preferred before the Hon'ble Supreme Court of India. Dismissing appeal, the Hon'ble Apex Court held that on plain

[23] May and Baker (India) Ltd. v Their Workmen, (1961) II LLJ 94 SC
[24] Ahmedabad Pvt. Primary Teachers' Association v Administrative Officer and Ors, AIR 2004 SC 1426 (2004) 1 SCC 755

construction of words and expression used in definition clause 2 (e) of the Act teachers who are mainly employed for imparting education are not to be covered for extending gratuity benefits under the Act.

The Hon'ble Apex Court pointed out that a trained teacher is not described in industrial field or service jurisprudence as skilled employee and 'semi-skilled' and'unskilled' are not understood in educational establishments as describing nature of job of untrained teachers. If legislature intended to cover in definition of "employee" all kinds of employees, it could have used a wide language. Non use of wide language in definition of employee under Section 2(e) of Act of 1972 reinforces that teachers are not covered in definition. The Hon'ble Court further held that teachers although engaged in very noble profession of educating our young generation should not be given any gratuity benefit.

V. CONCLUSION & SUGGESTION

The extension of the Minimum Wages Act, 1948, and the Payment of Gratuity Act, 1972, to include teachers marks a significant milestone in the recognition of their rights as employees. This inclusion addresses long-standing disparities in the compensation and post-employment benefits provided to educators, aligning their welfare with broader labor standards. By ensuring that teachers receive fair wages and gratuity, these legislative changes promote financial security and job satisfaction, contributing to a more motivated and stable teaching workforce.

The journey towards this inclusion has been shaped by evolving judicial interpretations, policy amendments, and advocacy by various stakeholders. While the legislative adjustments present challenges, particularly for educational institutions in terms of compliance and financial planning, the long-term benefits for the teaching profession are substantial. These benefits include enhanced economic stability for teachers, improved retention rates, and a more attractive profession for future educators.

(A) Suggestion

a. Clear Legislative Definitions:

Amend Definitions: Amend the Minimum Wages Act, 1948, and the Payment of Gratuity Act, 1972, to explicitly include teachers within their scope. This will eliminate ambiguities and ensure uniform application across educational institutions.

Professional Classification: Reclassify teachers as employees under labor laws without undermining their professional status, ensuring they receive due benefits without altering their core professional identity.

b. Standardization of Wages:

Uniform Wage Structure: Develop a standardized minimum wage structure for teachers at different educational levels (primary, secondary, and higher education) to ensure fair compensation across various institutions.

Periodic Review: Establish a mechanism for periodic review and adjustment of minimum wages for teachers in line with inflation and changing economic conditions.

c. Enhanced Gratuity Provisions:

Inclusive Gratuity Coverage: Ensure that all teachers, irrespective of the type of institution (government, private, aided, unaided), are eligible for gratuity benefits under the Payment of Gratuity Act.

Awareness Campaigns: Conduct awareness campaigns and training programs for educational administrators and teachers on the applicability and benefits of the Gratuity Act.

d. Data Collection and Research:

Impact Studies: Conduct regular impact studies and research on the effectiveness of these policies in improving teachers' financial security and job satisfaction.

Data-Driven Decisions: Utilize data from these studies to make informed policy adjustments and address any emerging challenges promptly.

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