

SOS POLITICAL SCIENCE AND PUBLIC ADMINISTRATION,
JIWAJI UNIVERSITY, GWALIOR
MBA HRD IV SEM
PAPER- HRD 403
SUBJECT NAME: LABOUR LAW

UNIT: V

TOPIC NAME:

THE PAYMENT OF GRATUITY ACT, 1972

THE PAYMENT OF GRATUITY ACT, 1972

Meaning of word “Gratuity”

- The word ‘Gratuity’ has been derived from the word “Gratuitous” which means ‘Gift’ or ‘Present’.



- It is a lump sum payment made by an employer as the retrial reward for his past service when his employment is terminated.



THE PAYMENT OF GRATUITY ACT, 1972

Object Of The Act

- Retiring benefit-Long and Unblemished service



THE PAYMENT OF GRATUITY ACT, 1972

Section 1

Extent and Application

- It extends to the whole of India
- **Applicable to:**
 - every factory, mine, oilfield, plantation, port and railway company;
 - every shop or establishment in which 10 or more persons are employed, or were employed, on any day of the preceding twelve months



THE PAYMENT OF GRATUITY ACT, 1972

Applicability Sec 1



except



✓ Every factory, mine, oilfield, port and Railway Company

✓ Every shop or establishment within the meaning of any law for the time being in force in relation to **shops and establishment in a State**, in which **10 or more persons** are or were employed **on any day in the preceding 12 months**, will include Educational Institute, Temple and Non Commercial Establishment.

✓ Such other establishments or class of establishment, in which 10 or more employees are or were employed on any day in the preceding 12 months, as **notified by CG by way of a notification in the Official Gazette**.

NOTE If the provisions of the Act become applicable to a **shop or establishment once**, the Act shall **continue to apply** to such shop or establishment **even if the no.** of employees **falls below 10 at any time in the future**.

THE PAYMENT OF GRATUITY ACT, 1972

- ◆ An Act to
- ◆ provide for a scheme of gratuity to
- ◆ employees engaged in
- ◆ factories,
- ◆ mines,
- ◆ oilfields,
- ◆ plantations,
- ◆ ports,
- ◆ Railway companies,
- ◆ shops or
- ◆ other establishments

Applicability



except



- ✓ Shop and establishment covered under SHOPS AND ESTABLISHMENT ACT- 10 or more persons - immediately preceding to 12 months.
- ✓ Once this act applies – continue to be governed – irrespective of no of persons
- ✓ It shall come into force on such date as the central government may by notification , appoint

Section 2

Definitions

- Sec.2(e) "employee" means any person employed to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work
- it does not include an apprentice
- Sec.2 (s) "wages" includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

Gratuity when payable ?

Gratuity shall be payable to an employee

- Who has rendered continuous service for not less than 05 years
- on the termination of his employment -
- on his superannuation, or
 - on his retirement or
 - resignation, or
 - on his death or disablement due to accident or disease:

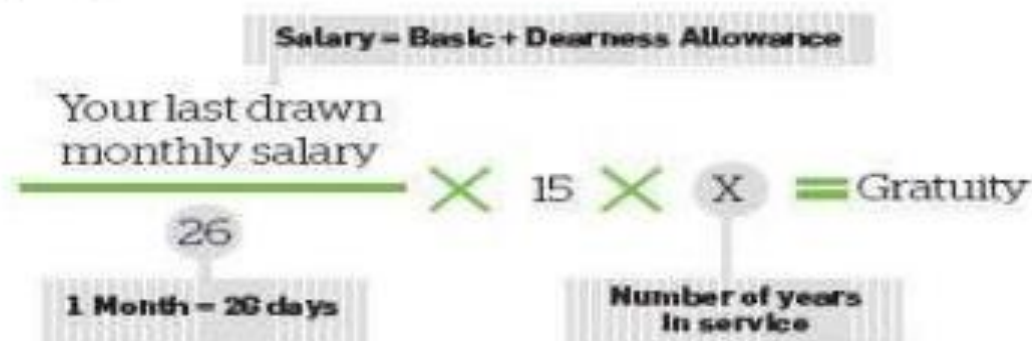
Note:-

The completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

How to calculate the Amount of Gratuity?

- **Monthly rated employee :**

At the rate of 15 days wages based on the rate of wages last drawn by the employee concerned:



- **piece-rated employee, daily wages :**

On the average of the total wages received by him for a period of three months immediately preceding the termination of his employment excluding overtime wages

- **seasonal establishment**

At the rate of seven days wages for each season.

- **Maximum Limit Rs.3,50,000/-**

- **Higher benefits can be paid if the employer so desires.**

Can gratuity be withheld by the employer ?

- The gratuity of an employee, whose services have been terminated for any act, willful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused.
- **The gratuity payable to an employee may be wholly or partially forfeited**
- If the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part.
- If the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

Section: 5

Power to exempt

The appropriate Government i.e.

- state Government or
- central Government may (as the case may be) exempt any establishment, factory, mine, oilfield, plantation, port, railway company or shop from the application of this Act by notification.

Section: 6
Nomination

- Each employee, who has completed one year of service, shall make nomination for to receive the amount of gratuity.
- In his nomination, an employee may, distribute the amount of gratuity payable to him amongst more than one nominee.
- If at the time of making nomination he has already family, he can not make nomination in favor of a person who is not a member of his family. If he does so it shall be void.
- Fresh nomination in favour of one or more members of his family is required where he has not family at the time of making nomination..
- If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who can make a fresh nomination.
- Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody.

Section: 7

Determination of the amount of gratuity

- A person who is eligible for payment of gratuity shall send a written application to the employer.
- The employer shall determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount gratuity so determined as soon as gratuity becomes payable and whether or not an application has been made by the concerned employee.
- The employer shall arrange to pay the amount of gratuity within 30 days from the date it becomes payable.

THE PAYMENT OF GRATUITY ACT, 1972

Section: 9 Penalties

- Knowingly making false statement/ false representation to avoid to make payment → imprisonment up to 06 months, or with fine which may extend to Rs.10,000/- or with both.
- Breach, or makes default in complying with any of the provisions of this Act → imprisonment for 03 months to 01 year, or with fine which shall not be less than Rs.10,000/- but which may extend to Rs.20,000/- or with both:
- Non-payment of any gratuity → imprisonment 6 months to 02 years + a fine.



Thank You

