

Not bounty but property

“Gratuity is not paid to the employee gratuitously or merely as a matter of boon,” Justice P.B. Gajendragadkar of the Supreme Court once aptly described the obligation of the employer. Thus, the Payment of Gratuity Act, 1972 makes every establishment employing 10 or more persons liable to pay gratuity.

In keeping with the spirit and intent of the Supreme Court’s judgments, the legislature has included an exhaustive, but by no means comprehensive, list of people who can benefit from the welfare legislation, which includes factory employees, workmen in mines, oilfields, plantations, ports, railway companies and shops. Given the ground it covers, the 1972 Act is viewed as an important social security legislation for the multitude of wage-earners in industries, factories and establishments.

The gratuity law provides social security to workmen after retirement, no matter whether this retirement was a result of the rules of superannuation, or physical disablement, or impairment of a vital part of the body. “It is a sort of financial assistance to tide over post-retiral hardships and inconveniences,” the Supreme Court described.

Payment of gratuity does not make the employee indebted to the employer. Instead, the court, speaking through Justice V.R. Krishna Iyer, held that “gratuity for a worker is no longer a gift but a right”. Thus, pension and gratuity are not bounty but the “property” of workmen.

Meanwhile, the government also recognises the need for periodic upgradation of this legislation considering factors like wage increase and inflation. The latest upgradation was in September when the Union Cabinet gave its approval for the introduction of the Payment of Gratuity (Amendment) Bill of 2017 in Parliament. The Bill doubles the ceiling of tax-free gratuity to 20 lakh.

The 2017 amendment proposes to increase “the maximum limit of gratuity of employees, in the private sector and in public sector undertakings/autonomous organisations under government not covered under Central Civil Services (Pension) Rules, at par with Central government employees.”

The present upper ceiling of 10 lakh on the gratuity amount was introduced in a 2010 amendment. Before that, the maximum amount of gratuity was 3.5 lakh. Till recently, the ceiling had been 10 lakh even for Central government employees. But with implementation of the Seventh Central Pay Commission, the ceiling was doubled to 20 lakh with effect from January 1, 2016.

The new U.S. Fed Chairman is unlikely to opt for policies that might upset the President’s plan

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