

# **KERALA STATE ELECTRICITY BOARD LIMITED**

(Incorporated under the Indian Companies Act, 1956)

Registered Office: Vydyuthi Bhavanam, Pattom, Thiruvananthapuram – 695 004.

## **Abstract**

Payment of Gratuity Act, 1972- Assessment of interest on belated payment of gratuity – Date of effect- Orders issued.

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## **CORPORATE OFFICE (PERSONNEL)**

B.O. (DB) No.1619/2014 (PSI/Gratuity/TVPM/2006) Thiruvananthapuram, Dated.10-06-2014

Read: 1. BO(FB)No.1313/2011(PSI/Gratuity/TVPM/2006) dt.24-05-2011

2. BO(FB)No.1152/2012(PSI/Gratuity/TVPM/2006) dt.05-06-2012

3. Legal opinion tendered by the Legal Adviser & Disciplinary Enquiry Officer.

## **ORDER**

Service conditions of the employees of Kerala State Electricity Board are governed by Kerala Service Rules. Pensionary benefits to the employees except gratuity are being sanctioned as per the provisions in Part III KSR. Pensionary benefits include service pension, family pension commutation of pension, DCRG, terminal surrender of Earned Leave etc. The revisions made by the Government from time to time with respect to the above benefits are adopted by KSE Board Limited also.

In 2002 a retired Chief Personnel Officer of KSE Board filed an OP (OP No.674/2002) before the Hon'ble High Court of Kerala claiming gratuity as per the provisions of Payment of Gratuity Act, 1972. Thereafter many petitions were filed at the fourteen District Labour Offices in Kerala for the same cause. In all those cases KSE Board was directed to pay the employees gratuity as per the provisions of Payment of Gratuity Act, 1972. Though the Board filed appeal before the Division Bench of the Hon'ble High Court and the three Regional Joint Labour Commissioners, all decisions were against the Board. During the bilateral discussion on wage revision, the Trade Unions demanded that Payment of Gratuity Act be implemented in KSE Board. The matter was referred to the Legal Adviser & Disciplinary Enquiry Officer for legal opinion and it was opined that the employees of KSE Board were entitled to gratuity as per the provisions of Payment of Gratuity Act.

The Board as per Order read as 1<sup>st</sup> paper decided to implement the Gratuity Act, 1972 and the Chief Engineer (HRM) was directed to take necessary steps for effecting payment as per the provisions of the Act.

Subsequently the Chief Engineer (HRM) sought certain clarifications regarding the method to be adopted in matters of effecting payment towards interest on belated payment of balance amount of gratuity as per the Act and as per Board Order read as 2<sup>nd</sup> paper, necessary guidelines has been issued to be followed in matters of payment towards balance amount of gratuity as per the provisions of Payment of Gratuity Act and interest thereon. The above Board Order stipulates that for the delayed payment of gratuity, simple interest @ 10% per annum may be given from the date on which it becomes payable to the date on which it is paid.

Board has already paid all its pensioners the benefit of Death-Cum Retirement Gratuity as per KSR Part III. With the implementation of Payment of Gratuity Act in KSE Board vide Board Order dated 24.05.2011, the pensioners were eligible to get the balance amount of gratuity as per the Payment of Gratuity Act, 1972.

Even though the Payment of Gratuity Act was implemented in KSE Board vide Board Order dated 24.05.2011, the pensioners claimed interest with effect from the date prior to the date of Board Order implementing the Payment of Gratuity Act in KSE Board Limited. Even the pensioners retired well before 2000 who have been paid gratuity as per KSR in time claimed interest which is against the meaning and spirit of the provisions of Payment of Gratuity Act and the Board Orders issued in this regard.

The matter was referred to the Legal Adviser & Disciplinary Enquiry Officer for legal opinion and it was remarked that it is material to note that scheme under the 1972 Act was implemented in the establishment vide, order dated 24.05.2011. The Board employees who retired prior to 24.05.2011 had already received DCRG as per KSR and they could not be equated as an aggrieved person due to delayed payment of Gratuity. Further no question for payment of interest arises prior to the implementation of the Act in Board on 24.05.2011. The order dated 05.06.2012 allowing interest from the date from which it fell due till payment from 1994 onwards caused huge financial burden to the Board.

A lion's share of Gratuity amount had already been paid to them in time and only the differential amount was due as far as the pensioners are concerned. Board is of the view that pensioners are not eligible for interest for delay. Interest already paid is not an amount paid on the basis of entitlement as per the Act, 1972.

In view of the fact that the provisions governing Death-Cum Retirement Gratuity as per KSR prevailed in KSE Board up to 24.05.2011, the date on which the Board Order implementing Payment of Gratuity Act, 1972 was issued and considering the legal opinion tendered in this regard, the issue was placed before the Board of Directors in their 14<sup>th</sup> meeting held on 29.05.2014 vide Agenda Item No. 27-05/2014 and the Director Board after detailed discussion resolved to order that:

1. For the delayed payment of gratuity, simple interest @ 10% per annum may be given only from 24.05.2011 (the date on which the Board Order for implementing Payment of Gratuity Act, 1972 in KSE Board was issued) to the date on which the gratuity is paid, ie, for employees who have retired prior to 24.05.2011 interest for delayed payment will accrue only from 24.05.2011 and for employees retired after 24.05.2011 interest for delayed payment will accrue from the actual date on which gratuity is payable.
2. The Chief Engineer (HRM) shall recover the amount disbursed to the pensioners towards interest on belated payment of gratuity as per the provisions of Payment of Gratuity Act in line with the above from the pensionary benefits/arrears.
3. The Chief Engineer (HRM) shall provide sufficient number of installments if necessary for effecting the recovery of interest on belated payment of gratuity.

By Order of the Director Board

*Sd/-*

M. SHAHUL HAMEED

**Secretary (Administration)**

To: The Chief Engineer (HRM).

Copy to:

All Chief Engineers/All Deputy Chief Engineers/All Executive Engineers

The Financial Adviser/Chief Internal Auditor

The Legal Adviser & Disciplinary Enquiry Officer/Chief Vigilance Officer

The Director ( I T )/Deputy Secretary (Admn.)/Public Relations Officer

The TA to Chairman & Managing Director

The TA to Director (D & GE)/Director (T & SO)/Director (GC)

The PA to Director (Finance)/CA to Secretary (Administration)

The F C Superintendent/Record Section/Library/Stock File.

Forwarded/By Order

*Sd/-*

**Senior Superintendent**