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HRD/ S&C/ Gratuity/ 10420

Date: 23/04/2012

**Circular**

***Sub: Implementation of the payment of Gratuity (Amendment) Act, 2010 and necessary changes in the MSEB Gratuity Regulations, 1960.***

As per the provisions of MSEB Employees Gratuity Regulations 1960 the maximum limit of gratuity payable shall not exceed 20 months emoluments considering a month of 30 days. The payment of Gratuity Act 1972 is also made applicable to the employees of erstwhile MSEB and now MSEDCL. These being Statutory Provisions are mandatory to follow the same. **Recently, the Ceiling Limit of gratuity payment prescribed by Section 4(3) of the Act is enhanced from Rs. 3.5 Lakhs to Rs. 10 Lakhs w.e.f 24<sup>th</sup> May 2010, by Gratuity (Amendment) Act 2010. Consequent to above Amendment in Gratuity Act, the employee is entitled to receive the gratuity amount up to Rs. 10 Lakhs, irrespective of ceiling limit of 20 months emoluments prescribed by Gratuity Regulations 1960.** However, it has been observed in some cases that the 20 months emoluments of the employee is less than the gratuity amount calculated as per the formula/provision of Gratuity (Amendment) Act 2010. At present, the retired employee is being paid maximum 20 months emoluments as a retirement gratuity which is less than he is entitled for, as per the Statutory Provisions. Thus, the employee is deprived from the statutory benefit/ right conferred to him by Section 4(3) & 4(5) of the Act.

Therefore, in order to resolve the controversies on implementation of Gratuity (Amendment) Act 2010, the following necessary changes are suggested in MSEB Employees' Gratuity Regulation 1960, with due approval of Executive Director (HR) and Director (Finance) of MSEDCL, MSETCL and MSPGCL:

The provisions under section 4(3) of Payment of Gratuity (Amendment) Act 2010, has to be implemented mandatorily i.e. the amount of gratuity payable to an employee shall not exceed Rs.10 Lakhs.

Whenever the gratuity amount calculated in accordance with Section 4(2) of payment of Gratuity Act is more than the amount calculated in accordance with MSEB Employees Gratuity Regulation 1960, but less than or equal to ceiling limit prescribed by Section 4(3) of

payment of Gratuity (Amendment) Act 2010, then the payment will be made as per the ceiling of provision of Section 4(3) of the payment of Gratuity (Amendment) Act 2010.

In case gratuity calculated in accordance with provision of payment of Gratuity (Amendment) Act, 2010 is more than the ceiling prescribed in Section 4(3); in that case employee will be entitled to receive payment of gratuity calculated as per the formula up to 20 months emoluments as per the provision of Gratuity Regulations 1960. Provided, the amount (i.e. 20 months emoluments) is more than ceiling limit prescribed by Section 4(3).

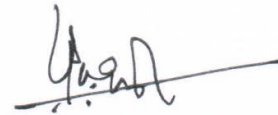
In case of death of the employee, the gratuity amount calculated in accordance with Section 4(2) of the Gratuity Act [provided such amount is rounded off to ceiling limit prescribed by section 4(3) of the Act if it exceeds the ceiling limit prescribed by section 4 (3)] or the amount of 20 month's emoluments (calculated as per provisions of MSEB Employee's Gratuity Regulations, 1960) whichever is higher, shall be payable as amount of death gratuity.

A few illustrations elucidating the method of Gratuity Calculation are given in annexure appended hereto.

All the concerned offices are here by instructed to finalize the gratuity cases as per the provisions and illustration given above.

This Circular may be implemented with effect from 24<sup>th</sup> May 2010.

This Circular is available on MSEDCL Intranet.



Vijay Bagul

Chief General Manager (HR)

To,

All as per the mailing list up to level of Executive Engineer and above in Corporate Office and Field.

# Annexure : Illustrations

# Annexure A (1)

## Present Practice

- Basic pay = ` 31,675/-
  - D. A. = ` 8,552/-
  - No. of yrs = 33
  - Gratuity payable under sec. 4(2) of Act  
=  $(31675+8552) \times 15/26 \times 33$   
= ` 7, 65,860
- Also 20 months emoluments =  $(31675+8552) \times 20$   
= ` 8, 04,540/-

**Whichever is less = ` 7, 65,860**

Therefore, eligible Gratuity = ` 7, 65,860

## Amendment

- Basic pay = ` 31,675/-
- D. A. = ` 8,552/-
- No. of yrs = 33
- Gratuity payable under sec. 4(2) of Act  
=  $(31675+8552) \times 15/26 \times 33$   
= ` 7, 65,860/-

*No need to calculate 20 months emoluments as the amt. obtained above is below Rs 10 lakhs which is ceiling limit of ACT*

Hence, the eligible Gratuity = ₹ 7,65,860

## Annexure A (2)

### Present Practice

- Basic pay = ₹ 20,145/-
- D. A. = ₹ 10,274/-
- No. of yrs = 40
- Gratuity payable under sec. 4(2) of Act  
=  $(20145+10274) \times 15/26 \times 40$   
= ₹ 7,01,977/-
  - Also 20 months emoluments =  $(20145+10274) \times 20$   
= ₹ 6,08,380/-

**Whichever is less = ₹ 6,08,380/-**

Therefore, eligible Gratuity = ₹ 6,08,380

- ❖ This is contradictory to the provisions of "Act" & employee suffers a loss of ₹ 93,597/-

### Amendment

- Basic pay = ₹ 20,145/-
- D. A. = ₹ 10,274/-
- No. of yrs = 40
- Gratuity payable under sec. 4(2) of Act  
=  $(20145+10274) \times 15/26 \times 40$   
= ₹ 7,01,977

*No need to calculate 20 months emoluments as the amt. obtained above is below Rs 10 lakhs which is ceiling limit of ACT.*

Hence, the eligible Gratuity = ` 7, 01,977/-

# Annexure B (1)

## Present Practice

- Basic pay = ` 47,640/-
- D. A. = ` 12,836/-
- No. of yrs = 36
- Gratuity payable under sec. 4(2) of Act  
=  $(47640+12863) \times 15/26 \times 36 = ` 12, 56,601/-$ 
  - Also 20 months emoluments =  $(47640+12863) \times 20 = ` 12, 10,060/-$

**Whichever is less = ` 12, 10,060/-**

Therefore, eligible Gratuity = ` 12, 10,060/-

## Amendment

- Basic pay = ` 47,640/-
- D. A. = ` 12,836/-
- No. of yrs = 36
- Gratuity payable under sec. 4(2) of Act  
=  $(47640+12863) \times 15/26 \times 36 = ` 12, 56,601/-$ 
  - ❖ **Here it is necessary to calculate 20 months emoluments as the gratuity calculated above exceeds ceiling limit of Rs 10 lakhs**

❖ Therefore, 20 months emoluments =  $(47640+12863) \times 20 = ` 12, 10,060/-$

**Whichever is less = ` 12, 10,060/-**

Therefore, eligible Gratuity = ` 12, 10,060/-

- ❖ NOTE: HERE **20 MONTHS EMOLUMENTS** HAS COME TO BE AN ELIGIBLE GRATUITY AMOUNT. PLEASE NOTE THAT SITUATION WILL BE REVERSED IN THE NEXT CASE NO. B (2)

# Annexure B (2)

## Present Practice

- Basic pay = ` 42,410/-
- D. A. = ` 14,844/-
- No. of yrs = 32
- Gratuity payable under sec. 4(2) of Act  
=  $(42410+14844) \times 15/26 \times 32 = ` 10, 56,997/-$ 
  - Also 20 months emoluments =  $(42410+14844) \times 20$   
= ` 11, 45,080/-

**Whichever is less = ` 10, 56,997/-**

Therefore, eligible Gratuity = ` 10, 56,997/-

## Amendment

- Basic pay = ` 42,410/-
- D. A. = ` 14,844/-
- No. of yrs = 32
- Gratuity payable under sec. 4(2) of Act  
=  $(42410+14844) \times 15/26 \times 32 = ` 10, 56,997/-$ 
  - ❖ **Here it is necessary to calculate 20 months emoluments as the gratuity calculated above, exceeds ceiling limit of Rs 10 lakhs**
  - ❖ Therefore, 20 months emoluments =  
 $(42410+14844) \times 20 = ` 11, 45,080/-$

**Whichever is less = ` 10, 56,997/-**

Therefore, eligible Gratuity = ` 10, 56,997/-

- ❖ NOTE: HERE **Gratuity payable under sec. 4(2) of Act** HAS COME TO BE AN ELIGIBLE GRATUITY AMOUNT. PLEASE NOTE, THIS SITUATION IS REVERSE OF THAT IN CASE B (1)

# Annexure C (1)

## Present Practice

- Basic pay = ` 37,995/-
- D. A. = ` 10,259/-
- No. of yrs = 39
- Gratuity payable under sec. 4(2) of Act  
=  $(37995+10259) \times 15/26 \times 39 = ` 10,85,715/-$ 
  - ❖ **Ceiling limit of Gratuity as per sec 4(3) of the Act is ` 10,000,00/-**
  - ❖ Also 20 months emoluments =  $(37995+10259) \times 20 = ` 9,65,080/-$

**Whichever is less = ` 9,65,080/-**

Therefore, eligible Gratuity = ` 9,65,080/-

## Amendment

- ❖ Basic pay = ` 37,995/-
- ❖ D. A. = ` 10,259/-
- ❖ No. of yrs = 39
- ❖ Gratuity payable under sec. 4(2) of Act  
=  $(37995+10259) \times 15/26 \times 39 = ` 10,85,715/-$
- ❖ **Ceiling limit of Gratuity as per sec 4(3) of the Act is ` 10,000,00/-**
- ❖ Also 20 months emoluments =  $(37995+10259) \times 20 = ` 9,65,080/-$
- ❖ **Note: Eligible gratuity amount thus obtained is in contradiction with the statutory provisions of Act. Here, since the gratuity as per section 4(2) is worked out to be ` 10,85,715 & ceiling limit as per section 4(3) of Act is ` 10,000,00/-, the employee in question is entitled to receive the gratuity equal to ` 10,000,00/- and not ` 9,65,080/-**



❖ Therefore, eligible Gratuity = ₹ 10,000,00/-

# Annexure C (2)

## Present Practice

- Basic pay = Rs. 36,195/-
- D. A. = Rs. 12,688/-
- No. of yrs = 37
- Gratuity payable under sec. 4(2) of Act  
=  $(36195+12668) \times 15/26 \times 37$   
= **Rs 10, 43,037**
  - Also 20 months emoluments =  $(36195+12668) \times 20$   
= **9, 77,260**

**Whichever is less = Rs. 9, 77,260**

Therefore, eligible Gratuity = Rs. **9, 77,260**

## Amendment

- Basic pay = ₹ 36,195/-
- D. A. = ₹ 12,688/-
- No. of yrs = 37
- Gratuity payable under sec. 4(2) of Act  
=  $(36195+12668) \times 15/26 \times 37 = ₹ 10, 43,037$ 
  - ❖ **Ceiling limit of Gratuity as per sec 4(3) of the Act is ₹ 10,000,00/-**
  - ❖ Also 20 months emoluments =  $(36195+12668) \times 20$   
= ₹ **9, 77,260/-**

**Note: - If the eligible gratuity amount is decided to be ₹ 9, 77,260, it will be in contradiction with the statutory provisions of Act.**

**Here, since the gratuity as per section 4(2) is worked out to be ₹ 10, 43,037/- & ceiling limit as per section 4(3) of Act is ₹ 10, 000, 00/-, the employee in question is entitled to receive the gratuity equal to ₹ 10, 000, 00/- and not ₹ 9, 77,260/-**

*Therefore, eligible Gratuity = ` 10,000,00/-*

# Annexure D (1)

## Death Gratuity

- Basic pay = ` 32,195/-
- D. A. = ` 10,688/-
- No. of yrs = 34
- Gratuity payable under sec. 4(2) of Act
  - =  $(32195+10688) \times 15/26 \times 34$
  - = ` 8, 41,166/-
  - Also 20 months emoluments =  $(32195+10688) \times 20$
  - = ` 8, 57,660/-
  - Whichever is maximum = ` 8, 57,660/-

***Therefore, eligible death Gratuity = ` 8, 57,660/-***

# Annexure D (2)

## Death Gratuity

- Basic pay = ₹ 45,710/-
  - D. A. = ₹ 23,312/-
  - No. of yrs = 36
  - Gratuity payable under sec. 4(2) of Act
    - =  $(45710+23312) \times 15/26 \times 36$
    - = ₹ 14,33,534/-
    - = ₹ 10,00,00,00/- [rounded off to ₹ 10,00,00,00/- by applying provisions of section 4(3) of Act which is ceiling limit of Gratuity]
    - Also 20 months emoluments =  $(45710+23312) \times 20$
    - = ₹ 13,80,440/-
- Whichever is maximum = ₹ 13,80,440/-

***Therefore, eligible death Gratuity = ₹ 13,80,440/-***

# Annexure D (3)

## Death Gratuity

- Basic pay = ` 37990/-
- D. A. = ` 10,200/-
- No. of yrs = 39
- Gratuity payable under sec. 4(2) of Act  
=  $(37990+10200) \times 15/26 \times 39$   
= ` 10, 84,275/-  
= ` 10,000,00/- [ rounded off to Rs 10,000,00/- by  
applying provisions of section 4(3) of Act which is  
ceiling limit of Gratuity ]
  - Also 20 months emoluments =  $(37990+10200) \times 20$   
= ` 9, 63,800/-Whichever is maximum = ` 10, 000, 00/-

***Therefore, eligible death Gratuity = ` 10, 000, 00 /-***