



## 126. Is an employee on a 1-year fixed-term contract, with gratuity specified as 5% of wages in the employment letter, eligible for gratuity upon completion of the contract?

To address whether an employee on a 1-year fixed-term contract, with gratuity indicated as 5% of wages in the employment letter, is eligible for gratuity upon contract completion, we need to analyse the situation from two legal perspectives: **The Payment of Gratuity Act, 1972** and **The Indian Contract Act, 1872**.

### 1. The Payment of Gratuity Act, 1972:

According to the Payment of Gratuity Act, 1972, gratuity is generally payable to employees who have completed a minimum of **5 years of continuous service** with their employer. The relevant section is **Section 4(1)** of the Act, which explicitly states this condition for eligibility. Therefore, an employee who has only completed 1 year of service does not qualify for gratuity under this law, as the minimum service condition is not met.

Relevant Section:

- **Section 4(1):** Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for **not less than five years**, except in cases of death or disability, where this condition is relaxed.

Since the employee in this scenario has not completed the minimum five-year period, they are **not eligible for gratuity under the provisions of the Payment of Gratuity Act, 1972**.

### 2. The Indian Contract Act, 1872:

However, the question becomes more complex due to the mention of gratuity (5% of wages) in the employment letter, which was issued knowingly for a 1-year contract. This is where the **Indian Contract Act, 1872** comes into play.

Under the Indian Contract Act, 1872, an employment letter is a **legally binding contract** between the employer and the employee.

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As per **Section 2(h)** of the Act, a contract is defined as an agreement that is enforceable by law. Since the employment letter specifically mentions gratuity as part of the employee's compensation package, this **creates a contractual obligation**, regardless of the stipulations under the Payment of Gratuity Act.

Key Points from the Indian Contract Act, 1872:

- **Section 2(e)**: An agreement consists of reciprocal promises between the promisor (employer) and the promisee (employee).
- **Section 2(d)**: The mention of gratuity in the employment letter constitutes a **consideration**, which is essential for the enforceability of the contract.
- **Section 2(h)**: A legally enforceable agreement becomes a contract.

Since the promise of gratuity was made in the employment letter and forms part of the contractual terms, the employee has the right to claim it as a **contractual obligation**. This obligation would be enforceable under the Indian Contract Act, regardless of the fact that the employee does not meet the criteria under the Payment of Gratuity Act.

### Conclusion:

- **Under the Payment of Gratuity Act, 1972**, the employee is **not eligible for gratuity** due to not meeting the minimum service requirement of 5 years.
- **Under the Indian Contract Act, 1872**, since the employment letter explicitly mentions gratuity as a part of the employee's compensation, this promise is **contractually enforceable**. The employer is bound to pay gratuity as per the terms agreed in the employment contract.

In this case, **the employee is entitled to gratuity as a contractual right**, even though it is outside the scope of the Payment of Gratuity Act, 1972, due to the explicit terms of the employment agreement.

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