



120. Is an employee who has completed 4 years and 10 months eligible for gratuity under the provisions of the Payment of Gratuity Act, 1972?

An employee who has completed **4 years and 10 months of continuous service** may be eligible for gratuity under the **Payment of Gratuity Act, 1972**, provided they meet certain conditions based on judicial interpretations and specific provisions of the Act.

1. Gratuity and Minimum Service Requirement

According to the **Payment of Gratuity Act, 1972**, an employee must generally complete **five years of continuous service** to be eligible for gratuity. However, the key lies in understanding what constitutes "**continuous service**."

2. Interpretation of "Continuous Service"

Section 2A of the Act clarifies the meaning of "continuous service" and what qualifies as a completed year of service. The **Mettur Beardsell Ltd. v. Regional Labour Commissioner (1998)** case further elaborated on this, where the court ruled that an employee with **4 years and 240 days** (approximately **4 years and 8 months**) of service should be treated as having completed **five years of continuous service**. This interpretation aligns with the notion that an employee who has worked for at least **240 days in a year** is deemed to have completed one year of service.

The court dismissed the argument that a full calendar year of 12 months was required. Instead, it ruled that an employee could be considered to have completed one year of service if they worked **240 days** in that year. Therefore, an employee who completes **4 years and 240 days** of service effectively meets the eligibility criteria for gratuity.

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3. Application to 4 Years and 10 Months

In establishments that operate **six days a week, 240 working days** in a year would be met in approximately **8 months**. Therefore, an employee who has completed **4 years and 10 months** of service, which likely includes over **240 days in the fifth year**, would be considered to have completed **five years of continuous service**.

4. Exceptions and Special Considerations

- **Death or Disability:** If an employee dies or becomes disabled, they are eligible for gratuity regardless of the number of years worked.
- **Establishments with 10 or More Employees:** The Act applies only to establishments that employ at least **10 employees**.

5. Important Case Law

The **Mettur Beardsell Ltd.** case set a precedent by clarifying that employees who work for more than **240 days in the fifth year of service** can claim gratuity, even if they have not technically completed **five full calendar years**. The court's interpretation of "continuous service" ensures that employees are not penalized for missing a few days or months in the fifth year.

6. Conclusion

An employee who has completed **4 years and 10 months** of service, with at least **240 days of work** in the fifth year, would be eligible for gratuity under the **Payment of Gratuity Act, 1972**, based on judicial interpretations and the provisions of **Section 2A** of the Act. This broader interpretation protects the rights of employees, ensuring that their long-term service is recognized.

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