113 2025:PHHC:017596-DB

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA No.3256 of 2024 (O&M)
Date of Decision: 06.02.2025

Punjab & Sind Bank and another

…Appellants

Versus

Surinder Kumar Verma

…Respondent

CORAM: ***HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA***
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. I.P. Singh, Advocate
for the appellants.

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SANJEEV PRAKASH SHARMA, J.(Oral)

CM No.8021-LPA of 2024

For the reasons mentioned in the application, the same is allowed and the delay of 07 days in re-filing the present appeal is condoned.

LPA No.3256 of 2024

The present LPA preferred by the Bank against the order dated 25.09.2024 passed by learned Single Judge, whereby learned Single Judge after having taken into consideration the entire aspects placed before it in the writ petition and taking note of the fact that no reply has been filed by the respondents, passed following order:-

> *"10. The authorities have misinterpreted the definition of moral turpitude and failed to consider that the Bank itself admitted in their communication dated 18.06.2003 (Annexure P-5) the petitioner's claim. Considering that the petitioner has been honorably acquitted in the criminal*

> *case, I find no reason to deny the petitioner his rightful claim of gratuity. Accordingly, the present petition is allowed and the order dated 20.10.2004 (Annexure P-9) is set aside. The respondent-Bank is directed to release the petitioner's gratuity within four weeks from today with interest at 10% per annum.*
>
> *11. It is a shocking case wherein the respondents did not file the reply for 17 long years. So, it cannot be ruled out that some concerned officer in the Bank might get benefitted from such an order. Therefore, the accrued interest to be paid to the petitioner shall be recovered from the concerned officer responsible for delaying the case at the relevant time who failed in his duty to file the written statement within reasonable time. If the concerned officer has since retired, the amount of interest shall be recovered in installments by deducting from his pension.*
>
> *12. Apart from the above, the respondent-Bank is also burned with cost of Rs.50,000/- to be paid to the petitioner.*
>
> *13. It is made clear that the payment to the petitioner shall not be delayed on account of direction issued in para 11 of this order.*

2. Learned counsel for the Bank submits that the writ petitioner was not entitled to receive gratuity and he invites attention to the provisions of Regulation 46 of the Punjab & Sind Bank (Officers') Service Regulations, 1982, in support of his submissions. He further submits that there is a recovery sought to be made from the writ petitioner by the Bank and a suit thereto has been preferred for recovery of Rs.1,41,083/- inclusive of interest. Learned counsel has further submitted that there are two other recovery proceedings which have been filed before the concerned Debt Recovery Tribunal wherein orders have been passed for recovery from the writ

petitioner and therefore, the order releasing the gratuity ought not to have been passed. He also submits that the writ petitioner has been held guilty in the departmental proceedings of having committed forgery and therefore, the writ petitioner was not entitled to receive gratuity in terms of the Payment of Gratuity Act, 1972.

3. First of all, we examine the aspect with reference to the Payment of Gratuity Act, 1972. The Payment of Gratuity Act, 1972, would apply in terms of Section 1(3) of the Act. Thus, a specific notification has to be issued by the Central Government applying it to a particular institution. In the present case, we find that Regulation 46 of the Punjab & Sind Bank (Officers') Service Regulations, 1982, provides as under:-

> *"**46. GRATUITY:***
> *46. (1) Every officer shall be eligible for gratuity on:-*
> *a) Retirement*
> *b) Death*
> *c) Disablement, rendering him unfit for further service as certified by a Medical Officer approved by the Bank;*
> *d) Resignation after completing 10 years of continue service; or*
> *e) Termination of service in any other way except by way of punishment, after completion of 10 years of service.*
> *2) The amount of Gratuity payable to an officer shall be one month's pay for every completed year of service, subject to maximum of 15 months' pay.*
> *Provided that where an officer has completed more than 30 years of service, he shall be eligible by way of Gratuity for an additional amount at the rate of one half of a month's pay for each completed year of service beyond thirty years.*
> *Provided further that in respect of the officers on the appointed date, they may be given an option either to adopt*

> *the above pattern regarding gratuity or to continue in the present system. The option exercised shall be final (Please refer to Staff Circular No. 1398 dt. 19.10.84)*
> *Provided further that pay for the purpose of Gratuity for an officer who ceased to be in service during the period 1.7.1993 to 31.10.1994 shall be with regard to scale of pay as specified in sub-regulation (1) of regulation 4.*
> *Provided also that pay for the purpose of Gratuity of an officer who ceased to be in service during the period 1/4/1998 to 31/10/1999 shall be with regard to scale of pay as specified in sub-regulation (2) of Regulation 4."*

4. Thus, the Payment of Gratuity Act, 1972, does not apply on the officers employed with the Bank. The entire approach adopted is, thus, found to be fully misconceived. The payment of gratuity has to be made by the Bank alone and therefore, sending the writ petitioner to the Commissioner, Gratuity and to the Appellate Authority under the Payment of Gratuity Act, was fully wrongful and we, therefore, find that the findings given by the Appellate Authority under the Payment of Gratuity Act, would have no application to the facts of the present case. The Gratuity in terms of Regulation 46 has to be paid to every officer who is eligible for gratuity on retirement, death, disablement, resignation and termination of service in any other way except by way of punishment, after completion of 10 years of service. Thus, a person who is compulsorily retired, even by way of punishment, would fall within the ambit of Regulation 46(1)(a). The retirements may be of different nature. However, a person, who is compulsorily retired either in ordinary course or by way of punishment, would be entitled to receive pension and it would be, therefore, a case of retirement alone. Hence, the writ petitioner would be entitled to receive gratuity in terms of Regulation 46.

5. The contention of learned counsel that the case would fall within the ambit of Regulation 46(1)(e) to mean termination of service by way of punishment, is found to be wholly misconceived. 'Termination' as such is a word used where the services of a person are dispensed with and the relation between the employer and employee is severed for all times. It may be by way of simplicitor termination or by way of removal or by way of dismissal.

6. So far as the compulsory retirement is concerned, since a retiree continues to draw pension from the concerned employer, his relations do not completely severe from the employer. Thus, we find that the interpretation drawn and advanced by learned counsel for the appellant is misconceived and is accordingly rejected.

7. It is also noticed by learned Single Judge that in the criminal case registered against the writ petitioner by the Bank, he was honourably acquitted by the Judicial Magistrate Ist Class, Bathinda on 05.01.2011. Thus, even if it is presumed that the gratuity could have to be withheld till the criminal case is pending, the same was liable to be released after he was acquitted in the criminal case but the authorities have chosen not to release the gratuity. Having noticed the afore-said, we are satisfied that so far as the respondent-writ petitioner is concerned, he was entitled to receive gratuity after being compulsorily retired.

8. So far as the facts regarding recovery of amount and recovery suits are concerned, the same are totally independent of the service benefits of an employee. They are to be independently examined and if there is a decree passed in favour of the Bank, the Bank is always free to make recovery in accordance with law. It would, however, not in any manner affect the gratuity

which the concerned person is required to be paid on account of the service rendered by him with the Bank. The contentions which learned counsel have raised before this Court were not taken up by him before learned Single Judge as the Bank did not even file any reply before it. It was for the Bank to have informed the learned Single Judge about all these aspects and taken up the contentions. For 17 years, the writ petition remained pending and therefore, learned Single Judge has proceeded to impose a cost of Rs.50,000/- to be recovered from the concerned officer. We do not find any reason to interfere with the reasoned order passed by learned Single Judge and therefore, we dismiss the present appeal.

9. All the pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

06.02.2025 **(MEENAKSHI I. MEHTA)**
neetu **JUDGE**

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*