



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO. 15724 OF 2021 (L-PG)

BETWEEN:

PRABHA JATHANNA,
AGED ABOUT 70 YEARS,
W/O LATE S J JATHANNA,
FLAT NO.303-B, RANKA COLONY,
NEAR BILEKHAHALLI, BANNERAGHATTA ROAD,
BENGALURU-560076,
(SENIOR CITIZENSHIP BENEFIT NOT CLAIMED).

...PETITIONER

(BY SRI K R GANESH RAO, ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
AND CHIEF EXECUTIVE OFFICER,
BANK OF BARODA,
BARODA CORPORATE CENTRE,
C-26, G BLOCK, BANDRA KURLA COMPLEX,
BANDRA EAST, MUMBAI-400051.
2. THE APPELLATE AUTHORITY AND
DEPUTY CHIEF LABOUR COMMISSIONER (CENTRAL)
AND CONTROLLING AUTHORITY UNDER
THE PAYMENT OF GRATUITY ACT 1972,
GOVERNMENT OF INDIA,
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SADAN, 3RD CROSS, 3RD MAIN,
TUMKUR ROAD, YESHWANTHPUR,
BENGALURU-560022.
3. THE ASSISTANT LABOUR COMMISSIONER
(CENTRAL) AND CONTROLLING AUTHORITY
UNDER THE PAYMENT OF GRATUITY ACT 1972,

Digitally
signed by
PRAMILA G V
Location:
HIGH COURT
OF
KARNATAKA



GOVERNMENT OF INDIA,
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SADAN, 3RD CROSS, 3RD MAIN,
TUMKUR ROAD, YESHWANTHPUR,
BENGALURU-560022.

...RESPONDENTS

(BY SRI SIDDESWARA, ADVOCATE FOR
SRI UDAYA SHANKAR RAI P, ADVOCATE FOR R1,
SRI CHARANKUMAR K V, ADVOCATE FOR R2 & R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DTD 06.03.2020 PASSED BY THE CONTROLLING AUTHORITY UNDER THE PAYMENT OF GRATUITY ACT 1972 AND ASSISTANT LABOUR COMMISSIONER (CENTRAL) BENGALURU IN GRATUITY APPLICATION NO.48(34)2019-B3, ORDER DTD 11.05.2021 PASSED BY THE APPELLATE AUTHORITY UNDER THE PAYMENT OF GRATUITY ACT 1972 AND DY. CHIEF LABOUR COMMISSIONER (CENTRAL) BENGALURU IN GRATUITY APPEAL NO.36(196) 2020-B1 AND FORFEITURE OF GRATUITY ORDER DTD 26.10.2009 ISSUED BY THE GENERAL MANAGER, BANK OF BARODA, ZONAL OFFICER CHENNAI, ANNEXED TO THIS WRIT PETITION VIDE ANNEX-C, F AND B RESPECTIVELY AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

This petition is filed assailing the order dated 26.10.2009 passed by the respondent No.1, order dated 06.03.2020 passed by the Controlling Authority and order dated 11.05.2021 passed by the Appellate Authority.



2. The learned counsel for the petitioner submits that, the petitioner is the widow of the former employee of respondent no.1. The husband of the petitioner was compulsorily terminated from employment on 15.10.2007 as he admitted the charges levelled against him.

3. The charges framed against the husband of the petitioner are as under:

- "1. *He adopted such steps and took such actions as were prejudicial, derogatory, detrimental or injurious to the interest of the Bank.*
2. *He did not discharge his duties with integrity and honesty and took such actions and committed such omissions which showed lack of probity, integrity, honesty or bonafides.*
3. *He committed serious violation of duty, breach of trust reposed in him by the Bank.*
4. *He did not discharge his duties with devotion or diligence and took such actions and committed such omissions which showed a lack of care, caution or reasonable judgment and was grossly negligent in nature.*
5. *He knowingly defied/flouted instructions of higher authorities relating to sanction of loans and advances.*



6. *In the performance of his official duties, he failed to exercise proper care & control so as to ensure safety of bank's funds.*
7. *He in transgression of his discretionary lending powers vested with him accommodated a borrower by way of sanction of credit facilities violating Bank's systems & procedures, putting the Bank's funds in jeopardy.*
8. *He acted in a manner, unbecoming of an officer employee.*
9. *In the performance of his official duties and in exercise of powers conferred on him, he unauthorisedly exceeded his authority/powers and did not report the same and obtain approval/confirmation from higher authorities for such excessive actions."*

4. The gratuity payable to the husband of the petitioner is not paid on the premise that the employer is entitled to forfeit the gratuity under Section 4(6)(b) of the Payment of Gratuity Act, 1972 ('Act, 1972').

5. Learned counsel for the petitioner would submit that the husband of the petitioner approached the Controlling Authority, as the Section 4(6) of Act, 1972 does not apply to the petitioner's case as there is no loss or damage caused to the employer.



6. It is submitted that both authorities namely the Controlling Authority and the Appellate Authority erroneously rejected the claim on the premise that the employer is likely to suffer the loss.

7. Learned counsel for the petitioner would submit unless loss or damages established the gratuity cannot be forfeited.

8. In support of his contention, the learned counsel for the petitioner would submit that the Apex Court in ***Union Bank of India and Others vs. C.G. Ajay Babu and Another***¹ and also the Division Bench of this Court in ***Vijaya Bank and Others vs Mohandas Ramana Shetty***².

9. In addition, he would also submit that this is not a case involving moral turpitude as such, Section

¹ Civil Appeal No.8251/2018

² Writ Appeal No.1394/2018



4(6)(b) of the Act of 1972 would also not apply to the facts of the case.

10. Learned counsel appearing for the respondents would submit that the charges are admitted by the husband of the petitioner and he is terminated from the service. Accordingly, the employer has exercised the power under Section 4(6) of the Act, 1972 and has forfeited the gratuity amount payable.

11. Learned counsel for the respondent would urge that since the husband of the petitioner has disbursed the loan contrary to the banking norms, the act of the husband of the petitioner is likely to cause loss to the respondent bank and the respondent is justified in withholding the gratuity.

12. The Court has considered the contentions raised at the Bar and perused the records.

13. Section 4(6) of the Act, 1972 reads as under:-



"4. Payment of Gratuity.-(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,-*

XXXX
XXXX
XXXX

(6) *Notwithstanding anything contained in sub-section (i),-*

- (a) *the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer shall be forfeited to the extent of the damage or loss so caused.;*
- (b) *the gratuity payable to an employee may be wholly or partially forfeited-*
 - (i) *if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part; or*
 - (ii) *if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment."*

14. As can be noticed from the charges framed against the husband of the petitioner, no charge is framed relating to any misconduct which attracts Section 4(6)(b)



of the Act, 1972, to hold that the husband of the petitioner is involved in an act which constitutes moral turpitude.

15. In addition, it is also noticed that in the charges framed against the husband of the petitioner, there is no reference to any loss caused to the employer. It only refers to the likelihood of loss. No material is placed on record to show that the employer has suffered the loss.

16. The ratio in the aforementioned two judgments is that unless the loss is quantified, the employer is not entitled to deduct or forfeit the penalty. This being the position, the Court is of the view that the impugned orders are not tenable and accordingly, set aside.

17. It is submitted that the petitioner's husband who was a former employee is no more and the petition is filed by the widow of the petitioner.

18. Hence, the following:-



ORDER

- (i) Petition is ***allowed.***
- (ii) The respondent No.1 is directed to pay the gratuity payable to the employee to the petitioner.
- (iii) The exercise shall be completed within 45 days from the date of receipt of the copy of the order and the application dated 18.10.2007 by the employee shall be considered and amount shall be paid as per law.

**Sd/-
(ANANT RAMANATH HEGDE)
JUDGE**

CHS
List No.: 1 Sl No.: 69