

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**202**

**CWP No.14461 of 2014 (O&M)  
Decided on : 01.10.2019**

R.P. Sharma

... Petitioner

Versus

Food Corporation of India and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA**

Present: Mr. H.S. Saggu, Advocate  
for the petitioner.

Mr. K.K. Gupta, Advocate  
for the respondents.

**G.S. Sandhawalia, J. (Oral)**

**CM-10812-CWP-2019**

Application under Order 6 Rule 17 read with Section 151 CPC  
for amendment of the present writ petition has been filed.

Reply to the application has not been filed.

Accordingly, keeping in view of the averments made in the  
application and the fact that the case is still in the motion list, the  
application is allowed. The amended writ petition is taken on record.

CM stands disposed of.

**Main case**

Challenge in the present writ petition filed under Article  
226/227 of the Constitution of India is to the order dated 28.07.2007  
(Annexure P-4), passed by respondent No.3 and upheld in the appeal on  
28/29.07.2008 (Annexure P-7) by the Appellate Authority-respondent No.3

and order dated 31.12.2013 (Annexure P-8) passed by respondent No.1, wherein the reviewing authority in exercising of the powers conferred under the FCI (Staff) Regulations, 1971 rejected the review application.

The sole argument as such which has been raised by Mr. Saggu is that while passing the impugned order at the initial stage, whereby the petitioner was compulsorily retired from the service, forfeiture of gratuity as per Section 4, sub-Section 6 (a) of Payment of Gratuity Act, 1972 was also ordered. It is the case of the petitioner that the same was done without granting any opportunity of hearing and without quantifying the loss. He has placed reliance upon the judgment of this Court dated 09.05.2019 passed in **CWP No.1298 of 2018 'Gayatri Prasad Singh Vs. FCI and others'**, wherein the above issue was similarly considered which was also of the respondent-Corporation. While placing reliance upon the judgment of the Full Bench passed in **'UCO Bank and others Vs. Anju Mathur', 2013 (3) SCT 272** and **'Union of India and others Vs. CG Ajay Babu and another', (2018) 9 SCC 529**, it was held that such a order cannot sustain and was set aside to the extent of forfeiture of gratuity. Liberty was given as such to the Corporation to issue show cause notice to the petitioner specifying the loss of its property, which it may have suffered on account of his negligence and it would be open to the petitioner to reply to the said show cause notice after giving the petitioner an opportunity of hearing. The competent authority was then to pass the order whether the gratuity is liable to be forfeited or not.

**CWP No.14461 of 2014 (O&M)**

Mr. Gupta, submits that the said judgment has not been challenged and the reasoning as such has been accepted by the respondent-Corporation and directions issued in the same are being respected.

Accordingly, keeping in view the above, the present writ petition is partly allowed and the orders dated 28.07.2007 (Annexure P-4), 28/29.07.2008 (Annexure P-7) and 31.12.2013 (Annexure P-8) are quashed to the extent that the forfeiture of the gratuity will be reviewed by the respondent-Corporation. A show cause notice will be issued to the petitioner for specifying the quantum of the loss caused and keeping in view the provisions of the Gratuity Act, the respondent-Corporation will then take a decision on the said forfeiture.

Needless to say that it will be open to the petitioner to agitate for his grievances in case any adverse order is passed against him. Since, the petitioner has retired more than a decade earlier, it will be appropriate if the proceedings are completed within a period of 4 months from the receipt of the certified copy of this order.

The writ petition is partly allowed, accordingly.

**OCTOBER 01, 2019**  
*Naveen*

**(G.S. SANDHAWALIA)**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No