

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5052 OF 2019

Chandrakant Shankar Adake .. Petitioner
V/s
Veershaiv Co-Op. Bank Ltd & Anr. .. Respondents

Ms. Ranjana Todankar for the Petitioner.
Mr. M. S. Topkar Respondent No. 1.
Mr. Ramesh Cheulkar for Respondent No.2.

**CORAM: ABHAY AHUJA, JJ.
DATE : 20th JULY, 2022**

P.C. :-

1. By this Petition, Petitioner is challenging the order dated 3rd November, 2018 passed by the Appellate Authority under the Payment of Gratuity Act, 1972 setting aside the order dated 27th February, 2015 passed by the Controlling Authority in PGA No. 50 of 2008, whereby the Controlling Authority had allowed the application of Petitioner and directed the Respondent to pay Rs. 3,50,000/- towards the gratuity with interest @ 10% from 15th April, 2008 till the date of realisation.

2. Mr. Topkar, learned counsel for the Respondent No. 1-Bank would submit that the Appellate Authority proceeded on

the basis of the ratio laid down in *Laxman Balu Deulkar Vs. The Chief Executive Officer, Kolhapur Distruct Central Co-op. Bank Ltd, in Writ Petition No. 9044 of 2017 dated 14th June 2018*, that there was no requirement that charges against the employee are to be proved before the competent court and dismissal of services on account of such act involving moral turpitude is sufficient for forfeiture of amount of gratuity.

3. Learned counsel now fairly states that the Supreme Court in the case of *Union of India and Ors Vs. C. G. Ajay Babu and Anr.. 2018 III CLR 325* has observed that if there is no conviction of the employee for misconduct which according to bank is an offence involving moral turpitude, then there is no justification for the forfeiture of gratuity on that ground. He draws the attention of the Court to paragraph 20 of the said decision, which is quoted as under:-

“20. In the present case, there is no conviction of the respondent for the misconduct which according to the Bank is an offence involving moral turpitude. Hence, there is no justification for the forfeiture of gratuity on the ground stated in the order dated 20.04.2004 that the “misconduct proved against you amounts to acts involving moral turpitude”. At the risk of redundancy, we may state that the requirement of the statute is not the proof of misconduct of acts involving moral

turpitude but the acts should constitute an offence involving moral turpitude and such offence involving moral turpitude and such offence should be duly established in a court of law.”

3. Mr. Ramesh Cheulkar, learned counsel for Respondent No. 2-LIC submits that the said amount of gratuity to the tune of Rs. 3,11,100/- was insured by the Respondent no. 1-Bank, which insurance payment has already been made to the Bank and as such if the payment is made to the Petitioner-employee by the Bank, that would not cause any loss to the bank.

4. Having heard the learned counsel for the parties and after considering the decisions cited above, this Court is of the view that the impugned order dated 3rd November, 2018 passed by the Appellate Authority deserves to be set aside and is hereby set aside.

5. Respondent No. 1-Bank is directed to make payment to the Petitioner of Rs. 3,50,000/- in addition to interest @ 10% from 15th April, 2008 till the date of realisation within a period of four weeks.

(ABHAY AHUJA, J.)