

CWP-12985-2004

1

2023:PHHC:154419

207

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12985-2004

Date of Decision:04.12.2023

HARCHARAN SINGH & ANR.

..... Petitioners

Versus

PUNJAB AND SINDH BANK & ORS.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Sanjeev Kumar Arora, Advocate
for the petitioners.

Mr. R. Kartikeya, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Article 226 of the Constitution of India is seeking direction to respondent to release his gratuity alongwith interest.

2. The petitioner No.1 joined respondent-Bank on 21.09.1977 and petitioner No.2 joined on 27.09.1974. The petitioners came to be implicated in an FIR No.54 dated 10.11.1982. The petitioners came to be convicted by Special Judicial Magistrate vide judgment dated 22.04.1996. The petitioners preferred an appeal against the judgment of conviction and order of sentence. The appeal of the petitioners stands dismissed. The respondent invoking Clause (b) of Section 4(6) of Payment of Gratuity Act, 1972 has withheld gratuity of the petitioners.

3. Learned counsel for the petitioners contends that petitioners were compulsorily retired and they were never dismissed from service.

As petitioners were not terminated, thus, petitioners cannot be denied benefit of a gratuity.

Learned counsel for the petitioners in support of his contention relies upon judgment passed by this Court in ***Pale Ram Kandhal Vs. Central Bank of India and others 2017 (4) SCT 50.***

4. Per contra, learned counsel for the respondents submits that petitioners were compulsorily retired as punishment and offence committed by them involved moral turpitude. The sentence awarded by the Trial Court has been upheld, thus, they are not entitled to gratuity.

5. The dispute is confined to interpretation of Section 4(6)(b) of Payment of Gratuity Act, 1972. The said section is reproduced as under:

4(6) Notwithstanding anything contained in sub-section (1),—

a) xxxx xxxx xxx

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.”

6. From the perusal of afore-quoted section, it is quite evident that gratuity of an employee may be wholly or partially forfeited, if services of such employee have been terminated for any act which constitute an offence involving moral turpitude. The petitioners were compulsorily retired on account of their involvement in an offence punishable under Sections 120B, 420, 465 468 and 471 of Indian Penal

Code. The petitioners were not terminated from service whereas they were compulsorily retired. A Coordinate Bench of this Court has considered an identical issue in *Pale Ram Kandhal* (supra). The Court has clearly held that if compulsory retirement is allowed to be included in the expression ‘termination of service’ to deny the benefit of a gratuity to an employee then obvious difference and distinction between punishment of compulsory retirement and removal from service would cease to exist. The case of the petitioner is squarely covered by aforesaid judgment.

7. In the wake of above discussion and findings, the present petition deserves to be allowed and accordingly allowed. The respondents are directed to release gratuity to the petitioners alongwith interest @ 6% per annum.

(JAGMOHAN BANSAL)
JUDGE

04.12.2023
Ali

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>