

10-12-2025
ct no. 10
Sl.11
RP

WPA 15659 of 2025

The General Manager, UCO Bank & Anr.

-Versus-

Union Of India & Ors.

Mr. Manika Roy,
Mr. Ankita Chowdhury,
Mr. Atanu Sur

...for the petitioner

Mr. Sujit Lal Sircar

...for the Respondent no. 3

Mr. Ranajay Chatterjee,
Mr. Sukanta Banerjee.

...for the UOI

1. The petitioner submits that the respondent while performing his official duties in the exercise of powers conferred on him had acted contrary to the Regulation 5(3) of the UCO Bank Officer Employees (conduct) Regulations, 1976, as amended.
2. The petitioner initiated the disciplinary action against the respondent by issuing a charge sheet dated 28th January, 2019 on the ground that the Loans were issued by him for obtaining prior approval of the higher authority in accommodating certain parties which caused losses to the writ petitioners.
3. The petitioner submits that a show-cause notice was issued on 9th November, 2018 and thereafter, an Enquiry Officer was appointed.

As it appears from the report of the Enquiry Officer that the respondent was found to be guilty of charges since he failed to discharge his duties with utmost sincerity and due diligence being in contravention of the said Regulation.

4. The respondent submits that he was inflicted with a punishment for his misconduct for violating the said Regulation. Thereafter, the disciplinary authority by an order dated 27th September, 2019 revoked his suspension and imposed compulsory retirement from bank service by making a payment of Rs. 1,50,000/-.
5. The petitioner states despite there being an order of the disciplinary authority, the respondent did not prefer an appeal challenging the order passed by the Enquiry Officer on 27th September, 2019 which presumes his acceptance of the charges levelled against the petitioner.
6. The petitioner further states that due to such misconduct on the part of the respondent the petitioner Bank has suffered huge financial loss accordingly forfeited the gratuity amount of the respondent as a measure of punishment.
7. In this context, the petitioner relies upon Section 4 of Sub-section (6) which is reproduced below:-

*(6) notwithstanding anything contained in sub-section (1)-
 (a) the gratuity of an employee, whose services have been terminated for any act, willful 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 an act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.”*

8. It is also submitted by showing that as per the definition of ‘moral turpitude’ which is expressed as follows as per the Black’s Law Dictionary:-

*“Moral turpitude” is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity. (Pawan Kumar v. State of Haryana AIR 1996 SC 3300. JT 1996(5) SC 155, (1996) n2 SCJ 441 1996(4) SKR 40, (1996) 4 SCC 17, 1996 SCC (Cri) 583).
 The term “moral turpitude” is rather a vague one and it may have different meanings in different contexts. The term has generally been taken to mean to be a conduct contrary to justice, honesty, modesty or good morals and contrary to what a man owes to fellowman or to society on general. (Durga Singh v. State of Punjab AIR 1957 Punj 97).”*

9. The petitioner further submits that after a gap of 151 days that is 1st September, 2022 order passed by the disciplinary authority/respondent approached the controlling authority.
10. Upon considering the evidence and the submissions made, the controlling authority by an order dated 14th August, 2024 arrived at a finding that the respondent is entitled to a payment of Rs. 14,58,606/- with a simple interest at the rate of 10% per annum as specified by the Central Government and the Gazette of India Notification vide SO No. 847 (E),

dated 1st October, 1987 under sub-section (3A) of Section 7 of the Payment of Gratuity Act, 1972.

11. Being aggrieved by the order of the controlling authority, the petitioners challenged the said order before the appellate authority on 3rd December, 2024. The appellate authority by an order dated 5th May, 2015 was pleased to uphold the order of the controlling authority which is the subject matter of challenge in this writ petition.

12. The petitioner submits that the order of the appellate authority suffers from a legal infirmity since he has acted beyond the scope of the provisions enshrined in the said Act. The appellate authority arbitrarily in excess of his jurisdiction gave a direction for reopening the disciplinary proceedings and also to recover proportionately the pecuniary loss suffered by the petitioner by initiating disciplinary proceedings against the other employee of the petitioner, does not fall within the ambit of the said Act.

13. The learned Counsel for the respondent submits that prior to forfeiture of the gratuity amount, the employee ought to have given a show-cause notice for depositing the amount as

assessed by the controlling authority and subsequent thereto, the employer could have made an enquiry to that effect but such proceeding was not initiated from the end of the employer.

14. The petitioner vehemently opposes such contention and submits that Section 7 of Sub-section 4 Clause (a) is not applicable in the instant case.

15. In conspectus of the above, the entire proceeding in forfeiting the gratuity amount is vitiated due to non-compliance of the settled proposition of law as held by various Courts on this score alone.

16. After hearing the rival contention of the parties, I am of the considered view that the appellate authority has traversed beyond the scope of the statute by exceeding his jurisdiction by not considering the issue involved herein. It is a well settled proposition of law that forfeiture must be proportionate to the misconduct. An order enforcing disproportionate full forfeiture for minor issues may be an overreach.

17. The order dated 5th May, 2025 is hereby set aside and is remanded back to the appellate authority to revisit the issue in the light of the Judgment delivered by Supreme Court in the

case of **Western Coal Fields Ltd. Vs. Manohar Govinda Fulzele** reported at **2025 SCC Online SC 345** and pass a reasoned order in accordance with law upon considering as to whether in case of a minor punishment in the nature of misconduct can entail forfeiture of the gratuity amount.

18. The writ petition being WPA 15659 of 2025 is disposed of without going into the merits of the case.

19. The appellate authority is directed to complete the entire exercise within a period of 2 months and such decision shall be communicated forthwith to the concerned parties.

(Smita Das De, J.)