



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.154 OF 2022

Petitioner : The General Manager (HRM),
 (Original Non-Applicant) Bank of Maharashtra,
 Central Office, Head Office, Lokmangal,
 1501, Shivaji Nagar, Pune – 411 005..
 – Versus –

Respondents : 1. Shri Prakash Vishnu Shinde,
 (Original Applicants) Aged about 64 Years, Occ. Retired,
 R/o. J/19, Dhanraj Co-operative Housing Society,
 1224, Apte Road, Deccan Gymkhana,
 Pune – 411005.

2. Appellate Authority under Payment of Gratuity Act, 1972
 & Deputy Chief Labour Commissioner (Central),
 CGO Complex, Block 'C', 1st Floor, Seminary Hills,
 Nagpur – 440 006.

3. Controlling Authority under the Payment of Gratuity Act,
 1972 & Assistant Labour Commissioner (Central),
 CGO Complex, Block 'C', 1st Floor, Seminary Hills,
 Nagpur – 440 006.

 Mrs. Renuka Puranik Nalamwar, Advocate for the Petitioner.
 Mr. Jaiprakash Sawant, Advocate for Respondent No.1.
 Mr. V.A. Bramhe, Advocate for Respondent Nos.2 & 3.

CORAM : **ROHIT W. JOSHI, J.**
RESERVED ON : **14th OCTOBER, 2025.**
PRONOUNCED ON : **4th NOVEMBER, 2025.**

JUDGMENT :

Heard the learned Advocates appearing for the parties.

02. Respondent No.1 was in employment with the petitioner-bank as Regional Manager, Zonal Office, Goa. A departmental enquiry was initiated against him by issuing charge-sheet dated 30/10/2013. He was placed under suspension on 07/12/2013. While the enquiry was pending, respondent No.1 attained the age of superannuation on 31/12/2013. However, the enquiry continued even after his retirement and punishment of compulsory retirement was imposed on respondent No.1 vide order dated 29/04/2016.

03. The controversy in the present petition pertains to the claim of gratuity of respondent No.1. The petitioner had forfeited gratuity of respondent No.1 vide order dated 29/04/2016. Respondent No.1 approached the Controlling Authority under the Payment of Gratuity Act, 1972 (*hereinafter referred to as the "Act" for short*) challenging the action of the petitioner denying his claim for gratuity. The Controlling Authority allowed the application filed by respondent No.1 vide order dated 06/12/2019 holding that respondent No.1 was entitled to receive gratuity amount of Rs.10.00 lakhs with interest for the delayed payment and, accordingly, directed the petitioner to pay the said amount to respondent No.1 with accrued interest thereon. Aggrieved by the aforesaid order dated 06/12/2019, the petitioner preferred an appeal before the Appellate Authority under the Act. The said appeal came to be dismissed vide order dated 30/08/2021. The aforesaid orders are the subject matter of challenge in the present petition.

04. The learned Controlling Authority has held that the petitioner had failed to prove that it had suffered any loss on account of misconduct by respondent No.1 and, therefore, gratuity payable to respondent No.1 could not be forfeited. It is also held that the action to forfeit gratuity was taken without following due process of law and principles of natural justice. It is held that after the punishment was imposed on respondent No.1 in disciplinary enquiry, it was necessary to afford further opportunity of hearing to determine the quantum of actual loss suffered by the petitioner-bank on account of misconduct by respondent No.1. The learned Appellate Authority has held that since respondent No.1 was not prosecuted for the offence involving moral turpitude, the amount of gratuity payable to him could not be forfeited invoking Sections 4(6)(a) and 4(6)(b)(ii) of the Act.

05. Perusal of the order forfeiting gratuity will demonstrate that the petitioner had invoked Sections 4(6)(a) and 4(6)(b)(ii) of the Act. Section 4(6) of the Act reads as under:

“(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 any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.”

06. Thus, the decision to forfeit the amount of gratuity is taken on the ground that services of respondent No.1 were terminated for acts on his part, which caused loss to the petitioner-employer and also on the ground that his services were terminated for acts committed during the course of employment, which constitute an offence involving moral turpitude.

07. Perusal of the order will demonstrate that the amount of loss allegedly suffered is not quantified. Likewise, the petitioner-bank has also not initiated any enquiry to determine the amount of alleged loss suffered. The action of forfeiture of gratuity, therefore, cannot be sustained under Section 4(6)(a) of the Act.

08. The learned Advocates appearing for the rival parties made elaborate submissions on the right of the employer to forfeit gratuity under Section 4(6)(b)(ii) of the Act. As observed above, the learned Appellate Authority has dismissed the appeal preferred by the petitioner on the ground that respondent No.1 was not prosecuted for any offence involving moral turpitude, which was allegedly committed during the course of his employment. It is held that since there was no prosecution, the petitioner-employer could not have forfeited the amount of gratuity.

09. With respect, the learned Appellate Authority has erred in interpreting Section 4(6)(b)(ii) of the Act. The provision does not contemplate that the employee must be convicted by a Court of competent jurisdiction for any act which constitutes an offence involving moral turpitude and his services should be terminated for such act. The provision simply contemplates that services of the employee should be terminated for any act committed during the course of employment, which constitutes an offence involving moral turpitude. Thus, termination of services on the ground that the act committed by the employee amounts to offence involving moral turpitude by itself, is sufficient to forfeit the claim of gratuity. The legal position in this regard is well settled by the judgment of the Hon'ble Supreme Court in the matter of Western Coalfields Vs. Manohar Govinda Fjulzale, reported in (2025) SCC OnLine SC 345. The Hon'ble Supreme Court has considered judgment in the matter of Union Bank of India and others vs. C.G. Ajay Babu and another, reported in (2018) 9 SCC 529 and has disagreed with the observations in the said judgment that in order to attract Section 4(6)(b)(ii) of the Act, the services of the employee should be terminated on the ground of commission of an act involving moral turpitude during the course of employment coupled with conviction of the employee by a competent Court of law for such act. It is clearly held that termination of service on account of any act amounting to moral turpitude by itself is sufficient to attract Section 4(6)(b)(ii) and that conviction by a competent court of law for the said act is not required. The observations made in the matter of C.G. Ajay Babu, to this

extent, are found to be obiter and unnecessary by the Hon'ble Supreme Court.

10. In the case at hand, after conducting departmental enquiry against respondent No.1, punishment of compulsory retirement was imposed by the petitioner-employer. The question, which falls for consideration in the present petition, is as to whether the order of compulsory retirement will amount to termination of services to sustain the action of forfeiture of gratuity.

11. Perusal of Section 4(6)(b)(ii) of the Act will indicate that order of forfeiture of gratuity can be passed only if services are terminated on account of an act involving moral turpitude. If punishment other than termination of services is imposed, then gratuity cannot be forfeited under Section 4(6)(b)(ii) of the Act.

12. To answer the question, it will be necessary to refer to the provisions of various Regulations framed by the Board of Directors of the petitioner-bank in exercise of powers conferred under Section 19 read with Section 12(2) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. The Bank of Maharashtra Officers' Service Regulations, 1979, the Bank of Maharashtra Officer Employees' (Discipline and Appeal) Regulations, 1976 and the Bank of Maharashtra (Employees') Pension Regulations, 1995 will be relevant for answering the issue. Regulation 46 of the Officers' Service Regulations, 1979 deals with gratuity. The said regulation reads as under:

“Regulation 46 – Gratuity

46(1) Every Officer, shall be eligible for gratuity on:

1) Retirement

2) Death

3) disablement rendering him unfit for further service as certified by a medical officer approved by the Bank;

4) resignation after completing ten years of continuous service;

5) termination of service in any other way of punishment after completion of 10 years of service;

46(2) The amount of gratuity payable to an Officer shall be one month's pay for every completed year of service, subject to a maximum of 15 months' pay.

Provided that where an Officer has completed more than 30 years of service, he shall be eligible by way of Gratuity for an additional amount at the rate of an additional amount at the rate of one half of a month's pay for each completed year of service beyond 30 areas.

Provided further that pay for the purpose of Gratuity for an officer who ceased to be in service during the period 01.07.1993 to 31.10.1994 shall be with regard to scale of pay as specified in Sub Regulation (1) of Regulation 4.

NOTE:- If the fraction of service beyond completed years of service is 6 months or more, Gratuity will be paid pro-rata for the period.”

13. Perusal of the Regulations will demonstrate that every Officer is eligible for gratuity on his retirement. However, in case of termination of service by way of punishment, after completion of 10 years of service, the employee concerned will not be entitled to right to receive gratuity.

Therefore, even under the Regulations, right to receive gratuity can be denied only in the case of termination of services.

14. In this context, it will be appropriate to refer to the Discipline and Appeal Regulations, 1976. The Regulation 4 enumerates minor and major penalties. The relevant portion of Regulation 4 reads as under :

“Regulation 4 - Penalties : *The following are the penalties which may be imposed on an officer employee, for acts of misconduct or for any other good and sufficient reasons.*

Major Penalties :

(a).....

(b).....

(h) compulsory retirement;

(i) removal from service which shall not be a disqualification for future employment;

(j) dismissal which shall ordinarily be a disqualification for future employment.

Explanation : *The following shall not amount to a penalty within the meaning of this regulation namely:-*

(vii) termination of the service -

(a) *of an officer employee appointed on probation during or at the end of the period of probation, in accordance with the terms of his appointment, or the rules or orders governing such probation.*

(b) *of an officer employee appointed in a temporary capacity otherwise than under a contract or agreement; on the expiration of the period for which he was appointed, or earlier in accordance with the terms of his appointment,*

(c) of an officer employee appointed under a contract or agreement, in accordance with the terms of such contract or agreement.

(ix) termination of employment of a permanent officer employee by giving 3 month notice or on payment of 3 month's pay and allowances in lieu of notice,

(x) termination of employment of an officer employee on medical grounds, if he is declared unfit to continue in bank's service by the bank's medical officer.”

15. Thus, the Regulation does not refer to the words “termination of service” as a penalty. However, there are three major penalties by virtue of which relationship of employer and employee can be terminated by the bank. These major penalties are compulsory retirement, removal of service and dismissal from service. The Explanation to Regulation 4, is also relevant inasmuch as it uses the words “termination of service” and states that termination of service of an Officer at the end of probation or end of appointment on temporary basis or in accordance with terms of contract or termination by giving three months notice or on medical grounds will not be a punishment. Perusal of the Regulation will clearly indicate that compulsory retirement is a major penalty under the Regulation.

16. It will also be appropriate to refer to Regulation 20 of the Officers’ Service Regulations, 1979, which reads as under:

“Regulation No.20 – Termination of Service:

Regulation No.20(1)

(a) Subject to Sub-Regulation (3) of Regulation (16), where the

bank is satisfied that the performance of an officer is unsatisfactory or inadequate or there is a bona fide suspicion about his integrity or his retention in the Bank's service would be prejudicial to the interests of the Bank, and where it is not possible or expedient to proceed against him as per the disciplinary procedure, the Bank may terminate his services on giving him three months' notice or emoluments in lieu thereof in accordance with the guidelines issued by the Government from time to time.

(b) Order of termination under this Sub-Regulation shall not be made unless such officer has been given a reasonable opportunity of making a representation to the Bank against the proposed order.

(f) An officer employee whose services are terminated under sub-regulation (a) above shall be paid Gratuity, Provident Fund including employer's contribution and all other dues that may be admissible to him as per rules notwithstanding the years of services rendered."

17. Perusal of Regulation 20(1)(a) will demonstrate that services of an employee can be terminated by giving him three months' notice or emoluments of three months' notice period. Perusal of Regulation 20(1)(f) will demonstrate that in case where services of an employee are terminated under Regulation 20(1)(a), such employee will be entitled to receive gratuity. Although, the words "compulsory retirement" are not used in Regulation 20(1)(a), reading of the provision makes it clear that the said provision contemplates compulsory retirement. However, this action of compulsory retirement under Regulation 20(1)(a) is not punitive in nature. It is rather an administrative action. As against this, compulsory retirement under

Regulation 4(h) of the Discipline and Appeal Regulations, 1976 is by way of punishment. There is a qualitative difference between two modes of termination of services. Whereas, termination of service under Regulation 20(1)(a) is an administrative act, termination of service under Regulation 4(h) is a punitive action. Therefore, the Officers' Service Regulations provide that when services of an employee are terminated under Regulation 20(1)(a), he will be entitled to receive gratuity.

18. As stated above, right to forfeit gratuity is vested with the petitioner-bank on termination of service by way of punishment after 10 years of service. Regulation 46, as stated above, speaks of termination by way of punishment and not compulsory retirement. However, perusal of Regulation 4 will demonstrate that there are three punishments by virtue of which services of an employee can be terminated viz. compulsory retirement, removal and dismissal.

19. It is well settled that removal and dismissal are species of termination. Whereas, removal from service does not debar the employee from seeking reemployment with the employer and dismissal of services forfeits the employee from seeking reemployment with the employer. Compulsory retirement by way of punishment is also a mode of termination of service. However, it is qualitatively different from punishment of removal and dismissal. In case of termination of service by way of removal or dismissal, the employee normally is not entitled to receive pension, if he is working on a

pensionable post. However, in case of punishment of compulsory retirement, the employee may be entitled to receive pension.

20. In this regard, it is necessary to refer to the Bank of Maharashtra (Employees') Pension Regulations, 1995 of the petitioner-bank. Regulation 22 of the said Regulations states that resignation or dismissal or removal or termination of an employee from the services of the bank will dis-entitle him from receiving pensionary benefits. Regulation 33 deals with 'compulsory retirement pension'. It provides that when an employee is compulsorily retired from service, as a penalty under the Discipline and Appeal Regulations, 1976, pension may be granted to him by the Competent Authority at a rate not less than $2/3^{\text{rd}}$ of the full amount of pension, which would have been payable to him on the date of compulsory retirement.

21. Perusal of all the Regulations will indicate that the Regulations provide for three separate modes of termination of service by way of penalty viz. dismissal, removal and compulsory retirement. A separate punishment of termination by way of compulsory retirement is provided so that benefit of pension can be granted to the employee despite termination of his services.

22. Having regard to the scheme of the Regulations, in the considered opinion of this Court, the order of compulsory retirement will amount to termination of service by way of penalty. Such termination by way of compulsory retirement, if made on account of misconduct relating to moral turpitude during the course of employment will attract Section 4(6)(b)(ii) of

the Act. In such a situation, employer will be entitled to pass order for forfeiture of gratuity.

23. It is well settled that removal and dismissal are two species of termination. The Hon'ble Supreme Court has in the matter of **Union of India and another vs. Tulsiram Patel**, reported in **(1985) 3 SCC 398** held that order of compulsory retirement by way of punishment also amounts to removal from service. Thus, order of compulsory retirement by way of punishment results in termination in service by way of penalty.

24. In the Full Bench judgment of the Punjab and Haryana High Court in the matter of **UCO Bank and others vs. Anju Mathur**, reported in **2013 SCC OnLine P&H 5014**, dealing with identical Regulations, it is held that order of compulsory retirement is of two types viz. an administrative order and order by way of punishment. It is held that in case where an order of punishment is imposed by way of compulsory retirement, the same will amount to imposing punishment of termination of service, which will dis-entitle the employee to receive gratuity in view of Regulation 46(1)(e) of the UCO Bank (Officers) Service Regulations, 1979. Regulation 46 of the UCO Bank Regulations is identical to Regulation 46 of Bank of Maharashtra Regulations. Similar view is taken by a learned Single Bench of the Madras High Court in it's judgment dated 04/09/2023 delivered in **Writ Petition No.1375 of 2018 (The Chairman and Managing Director, Central Bank of India vs. The Appellate Authority under Payment of Gratuity Act)**. The

learned Single Judge has followed the aforesaid Full Bench's judgment in the matter of Anju Mathur and has held that punishment of compulsory retirement for misconduct relating to moral turpitude will amount to termination of service dis-entitling the employee to receive gratuity under Section 4(6)(b)(ii) of the Act. This Court is in complete agreement with the said judgments.

25. It will be pertinent to state that termination of services of an employee by itself is not a ground for forfeiture of gratuity under Section 4(6)(b)(ii) of the Act. Termination of services should be on account of act committed during the course of employment, which constitutes an offence involving moral turpitude. It is, therefore, necessary to peruse the punishment order dated 31/03/2016. Perusal of the said order will demonstrate that Charge Nos.1, 2 and 3 pertain to inaction on the part of respondent No.1 to take appropriate action against one of his subordinates. However, Charge Nos.4, 5 and 6 will demonstrate that he had sanctioned fake loans for protecting his subordinate Officer and concealing his misconduct and for that purpose, he had transferred amounts from accounts of one customer to another by opening fake loan account. The said charges are clearly pertaining to acts of misconduct involving moral turpitude. The case of respondent No.1, therefore, falls under Section 4(6)(b)(ii) of the Act.

26. Another contention raised by the learned Advocate for respondent No.1 is that respondent No.1 has attained the age of

superannuation on 31/12/2013 and as such was entitled to receive the amount of gratuity on the said date. The learned Advocate contends that the order of forfeiture of gratuity was passed on 29/04/2016 i.e. long after the said amount had already become due and payable. He also contends that the order of compulsory retirement is passed on 31/03/2016. The learned Advocate contends that since the right to receive gratuity was vested on 31/12/2013 itself, the same could not have been deprived in view of order of compulsory retirement dated 31/03/2016. The contention is liable to be rejected in view of Regulation 20(3)(iii) of the Officers' Service Regulations, 1979, which provides for continuation of disciplinary proceedings against a delinquent employee even after his superannuation. The petitioner was well within its right to withhold the amount of gratuity payable to respondent No.1 in view of pending disciplinary proceedings which were legally continued even after his superannuation. Reliance in this regard can be placed on the judgment of the Hon'ble Supreme Court in the matter of *Chairman-cum-Managing Director, Mahanadi Coalfields Limited vs. Rabindranath Choubey*, reported in *(2020) 18 SCC 71*. The Hon'ble Supreme Court has held that Section 4(6) overrides Section 4(1) of the Act. It is further held that the Act does not make any provision with respect to departmental enquiry. It is further held that if the relevant service Rules permit continuation of departmental enquiry after superannuation of the employee, the employer can withhold the amount of gratuity till culmination of the enquiry and to take appropriate decision with respect to payment of gratuity on conclusion of the

enquiry. It is held that Section 4(1) of the Act does not curtail right of employer to continue with the enquiry after superannuation of the employee, if the service Rules enable the employer to do so. It is further held that if gratuity is directed to be paid on superannuation of the employee while the enquiry is pending, the very object of Section 4(6) of the Act shall stand defeated. In the present case, Regulations of the petitioner-bank permit continuation of disciplinary enquiry even after the employee attains the age of superannuation. In that view of the matter, it will have to be held that the petitioner-employer was entitled to withhold the amount of gratuity till culmination of departmental enquiry against the respondent-employee.

27. The learned Advocate for the respondent-employee contends that the act of forfeiture of gratuity is also liable to be quashed, since the said action is taken in breach of the principles of natural justice. He has placed reliance on judgment of the Hon'ble Supreme Court in the matter of Jorsingh Govind Vanjari vs. Divisional Controller, M.S.R.T.C., Jalgaon, reported in 2017 (2) SCC 12 in support of his contention. In the said case, services of the employee were terminated and amount of gratuity was also forfeited. The employee challenged the order of dismissal before the Labour Court. The learned Labour Court set aside the dismissal order and held that the employee was entitled to all service benefits. Since the employee has attained the age of superannuation, 50% back wages were ordered to be paid till the date of superannuation. The employer challenged the said order before the High Court. The High Court allowed the petition modifying the award passed by

the Labour Court by directing that 50% amount of back wages, as awarded by the Labour Court, would be payable as 'one time compensation' to the employee and the employee will not be entitled to gratuity since charge of mortal turpitude during the course of employment was proved against him. The employee challenged the order passed by the High Court before the Hon'ble Supreme Court. The Hon'ble Supreme Court allowed the appeal filed by the employee finding that despite opportunity of leading evidence to prove the charge being granted by the learned Labour Court, the employer failed to avail the said opportunity and as such failed to prove the misconduct. In view of the aforesaid, the order of termination on account of moral turpitude was set aside. The Hon'ble Supreme Court found that since termination was set aside, payment of gratuity could not be denied to the employee merely in the light of enquiry report holding the employee guilty of the act involving moral turpitude. The Hon'ble Supreme Court has directed the payment of gratuity, since the order of termination on the ground of moral turpitude was set aside. The said judgment is clearly distinguishable on facts. It is not the case that termination of respondent – employee is set aside.

28. The judgment in the matter of *The Chairman and Managing Director, Bank of Maharashtra & Ors. vs. Shri Kishore s/o. Shankarrao Khadatkar & Ors.*, reported in 2022(6) ALL MR 431 is pertaining to forfeiture of gratuity under Section 4(6)(a), which provides for forfeiture of gratuity of an employee whose services are terminated for any act or willful omission or negligence causing damage or loss to the employer to the extent of such

damage or loss. Perusal of paragraph 26 of the judgment will demonstrate that this Court has held that when gratuity is to be forfeited under Section 4(6)(a), notice is required to be issued to the employee stating the basis of the alleged loss and quantum thereof to the employee so as to enable the employee to contest the contention of the employer regarding factum of loss suffered, if any, and quantum thereof. It will be pertinent to mention that in paragraph 25 of the judgment, it is categorically held that forfeiture of gratuity was not under Section 4(6)(b)(ii) but only under Section 4(6)(a) of the Act.

29. As regards the case of Vasant B. Bhujbal vs. Controlling Authority reported in 2021(3) Mh.L.J. 585, this Court has held that unless there is a proven case of employee being involved in an act amounting to offence of moral turpitude, separate 'show cause notice' must be given to the employee before taking any decision with respect to forfeiture of gratuity. The judgment places reliance upon another Single Bench's decision in the matter of Nanubhai Nichhabhai Desai vs. Deputy General Manager, UCO Bank, reported in 2017(4) Mh.L.J. 271. The said judgment categorically lays down that in case misconduct amounting to moral turpitude is proved in disciplinary enquiry, fresh notice for forfeiture of gratuity under Section 4(6)(b)(ii) need not be issued.

30. The ratio of the said judgments cannot be applied to the present case, where order of forfeiture was also passed invoking Section 4(6)(b)(ii).

Rather, the judgment in the matter of Nanubhai categorically rejects the contention that once services of an employee are terminated after holding departmental enquiry on the ground of misconduct involving moral turpitude, separate 'show cause notice' of forfeiture of gratuity under Section 4(6)(b)(ii) is not required.

31. In the present case, services of the respondent-employee are terminated by way of compulsory retirement after holding enquiry against him. In the said enquiry, charges relating to moral turpitude during the course of employment are held to be proved and, accordingly, order of punishment of compulsory retirement is passed. In view of the aforesaid, it must be held that the contention with respect to breach of natural justice is liable to be rejected.

32. The learned Advocate for respondent No.1 has also placed reliance on judgment of the Bombay High Court in AIR India Ltd. vs. Dharman K. Patil, reported in 2022(1) CLR 314. In the said case, services of the employee were terminated on the ground that he had secured employment by furnishing false information. This Court has held that securing employment by furnishing false information will not amount to act involving moral turpitude committed during the course of employment. It is held that Section 4(6)(b)(ii) of the Act will not be applicable and, therefore, the order of forfeiture of gratuity was set aside. With respect, this judgment does not appear to be in consonance with the law laid down by the Hon'ble

Supreme Court in the matter of *Western Coal Fields Ltd. vs. Manohar Govinda Fulzele* reported in *2025 SCC OnLine SC 345*. In the case before the Hon'ble Supreme Court, the employee had secured employment by suppressing his actual date of birth. His services were terminated after holding enquiry on this ground. The Hon'ble Supreme Court has held that since the appointment itself was illegal, there was no question of the terminated employee seeking fruits of employment by way of gratuity and, accordingly, action of the employer forfeiting the entire amount of gratuity was upheld.

33. In view of the aforesaid, in the considered opinion of this Court, the impugned order passed by the Controlling Authority as well as the Appellate Authority are unsustainable and are liable to be quashed. The writ petition deserves to be allowed and is, accordingly, allowed in the following terms:

- i. The order dated 30/08/2021 passed by respondent No.2-Appellate Authority under Payment of Gratuity Act, 1972 and Deputy Chief Labour Commissioner (C), Nagpur in PG Appeal No.N/48(02)/2020-PG and order dated 06/12/2019 passed by respondent No.30-Controlling Authority under the Payment of Gratuity Act, 1972 and Assistant Labour Commissioner (C), Nagpur in Case No.ALCN/48(25)/2016-PGA are quashed and set aside.

- ii. It is declared that respondent No.1-Shri Prakash Vishnu Shinde is not entitled to receive gratuity. Application filed by respondent No.1 for direction to the petitioner to make payment of gratuity bearing No.ALCN/48(25)/2016-PGA is rejected.
- iii. Rule is made absolute in the above terms with no order as to costs.

(Rohit W. Joshi, J.)