IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.07.2025
Pronounced on : 20.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.No.11000 of 2022
and WMP.No.10588 of 2022

1.Canara Bank
represented by its General Manager
Circle Office,
524 Anna Salai,
Teynampet,
Chennai.

2.Canara Bank
represented by its the Managing Director & CEO
Head Office,
112 JC Road,
Bangalore. .... Petitioners

Vs

1.The Appellate Authority under the
Payment of Gratuity Act, 1972 &
Dy Chief Labour Commissioner (Central), Chennai
5th Floor, Shastri Bhawan,
Chennai.

2.The Controlling Authority under the
Payment of Gratuity Act &
Regional Labour Commissioner (Central), Madurai
Kanaga Apartments, Suit No.III, I Floor
13-A Lady Doak College Road,

Chinna Chokkikulam,
Madurai.

3.Shri G Ramahandra,
121 Indira Garden, Sixth Street,
Uppilipalayam Post,
Coimbatore. .... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records of the 1st respondent in G.A.No.87 of 2019 and quash the order dated 15.03.2022 confirming the order of the 2nd respondent dated 27.08.2019 in gratuity application No.217 of 2018.

For Petitioners : Mr.P.Raghunathan
for M/s.T.S.Gopalan and Co.

For R1 & R2 : Mr.A.R.Sakthivel
For R3 : Mr.K.M.Ramesh
Senior Counsel

ORDER

This Writ Petition has been preferred as against the order passed by the 1st respondent in G.A.No.87 of 2019 dated 15.03.2022 by confirming order passed by the 2nd respondent dated 27.08.2019 in Gratuity Application No.217 of 2018 and to quash the same.

2. The 3rd respondent was working as Senior Manager in Samalapuram Branch in the petitioners' bank. While so, he sanctioned 106 number of loans to the borrowers and disbursed the loans to dealers who were not in the business of power looms. No asset was created to facilitate the business and some middlemen themselves remitted the margin money on behalf of the borrowers and siphoned off the entire loan proceeds. Certain borrowers filed Civil Suits complaining they have not received loans; the middlemen remitted some installments of loan; there was default in repayment and the accounts became non performing.

3. Due to the above default, the petitioner Bank issued a charge sheet against the 3rd respondent for the financial loss caused to the tune of Rs.9 crores. Thereafter, a departmental enquiry was conducted; the 3rd respondent was found guilty and he was dismissed from service.

4. The petitioner bank also issued show cause notice to the 3rd respondent proposing to forfeiture the gratuity of Rs.10 lakhs. In the mean time, the 3rd respondent filed an application for payment of gratuity and the same was allowed by the 2nd respondent/the controlling authority.

The petitioner bank preferred an appeal before the 1st respondent and the same was also dismissed. Aggrieved by the said order, this writ petition has been preferred by the Bank.

5. The learned counsel for the petitioner would submit that the 3rd respondent was earlier working in the Air Force. After his retirement, he was employed as Clerk in the Bank and he was promoted upto the post of Senior Manager. While he was working as a Senior Manager at Samalapuram Branch of the petitioner bank, he sanctioned and disbursed 106 loans avowedly for borrowers purchasing and operating power looms.

5.1. The learned counsel for the petitioner-Bank would further submit that the Branch Manager is required to obtain invoices from dealers who propose to sell to the borrowers and ascertain their genuineness with reference to TIN number and GST number. The 3rd respondent disbursed those loans in flagrant breach of the guidelines of the bank. The assets were not created and the dealers did not have any business or there was nothing to show that the equipment had really been delivered.

5.2. The learned counsel submits that on 16.04.2016, the 3rd respondent was suspended and he was issued with a show cause notice on 08.06.2016 and the 3rd respondent submitted his reply on 16.07.2016. Thereafter, a domestic enquiry was conducted. As per the enquiry report, the charges against the 3rd respondent were proved and disciplinary authority awarded punishment of dismissal from service. The 3rd respondent preferred an appeal against the dismissal order and the same was also dismissed. In the mean while, on 6.12.2017, the bank issued a show cause notice to the 3rd respondent proposing forfeiture of his gratuity. In the show cause notice, the amount was quantified as Rs.9.83 crores and proposed to forfeit his gratuity amount for Rs.10 lakhs. In the mean time, the 3rd respondent filed an application before the Controlling Authority under the Payment of Gratuity Act on 13.03.2018. The Controlling authority has passed order directing the bank to pay the gratuity amount. The petitioners' bank preferred an appeal before the 1st respondent and the same was also dismissed.

5.3. According to the learned counsel for the petitioner-Bank, both the 1st and 2nd respondent failed to consider the fact that the huge amount of public money was involved in this case and the authority has passed order by forfeiting the gratuity of the 3rd respondent. The 2nd respondent came to a erroneous conclusion that in the criminal case, he has not been convicted and therefore forfeiture was premature. The 1st respondent has not passed a reasoned order and without applying the mind, the impugned order has been passed. without recording the reasons, the appellate authority passed the non speaking order. Therefore, the order is liable to be set aside and the matter has to be remanded back to the Appellate Authority for fresh consideration.

5.4. The learned counsel appearing for the petitioner-Bank relied upon the following judgments.

1.Western Coal Fields Ltd Vs. Manohar Govinda Fulzele reported in Civil Appeal No.2608 of 2025

2.Kranti Associates Private Limited and another Vs.Massod Ahmed Khan and others reported in (2010) 9 SCC 496.

3.Uco Bank and Others Vs.Anju Mathur in LPA No.566 of 2012.

4.Pyare Lal Bhargava Vs. State of Rajasthan reported in 1963 Supp (1) SCR 689: AIR 1963 SC 1094:(1963) 2 Cri LJ 178.

6. The learned senior counsel appearing for the 3rd respondent would submit that the 3rd respondent was working as a Senior Manager at Samalapuram Branch of the petitioners' bank and he was wrongfully charged through a Charge Memo dated 16.12.2016 with false allegations. A domestic enquiry was not conducted by following the principles of nature justice and without affording fair opportunity, the domestic enquiry was conducted and the disciplinary authority awarded punishment of dismissal from service, which is disproportionate. In fact, the 3rd respondent had prepared office note for all the loan accounts and the margin amount was deposited in the SB account of the respective borrowers and the borrowers arranged for the margin amount from their own sources and also all the looms were supplied to the borrowers as per the quotation submitted by the party and all the looms were available at the time of post sanction inspection conducted by the 3rd respondent. The investigation was conducted after one year from the date of sanction and the units were functioning. In respect of the above charges, dismissal

order was passed by the disciplinary authority, however, once again the petitioners' bank passed the order by forfeiting the Gratuity amount without following the relevant rules under the Payment of Gratuity Act.

6.1. The 3rd respondent approached the Controlling Authority under the Payment of Gratuity Act and the authority also after hearing both sides, allowed the petition and directed the Bank to pay the gratuity amount of Rs.10 lakhs with interest at the rate of 10 % per annum. The forfeiture order has been passed by the petitioner-Bank under section 4(6)(b) of the Act.

6.2. The learned counsel for the 3rd respondent would further submit that the Bank has also filed Civil Suit for recovery of money against the borrowers. While so, the amount quantified by the bank is incorrect. Unless there is a quantification of the damage or loss caused to the bank, it would not be possible for the bank to invoke section 4(6)(a) of the Act. In this case, the bank has not invoked Section 4(6)(a) and issued notice under Section 4(6)(b). In order to attract 4(6)(b), it is necessary that when the conduct of the delinquent if only attract the ingredients of the provisions of the Act, the act/conduct committed by the delinquent constitute an offence in order to invoke moral turpitude committed by the employee in the course of employment. But in the case on hand, there is no any verdict by the Criminal Court as against the 3rd respondent. Therefore, the order passed by the bank forfeiting the gratuity amount is illegal. Therefore, the Controlling Authority under the Payment of Gratuity Act correctly ordered to pay the Gratuity amount . It is not for the bank to decide whether an offence has been committed by the employee or not and impose forfeiture and it is for the Court to decide it. Under sub-section 6(b)(ii) of the Act, forfeiture of gratuity is permissible only if the termination of an employee is for any misconduct which constitutes an offence involving moral turpitude and convicted accordingly by a Court of competent Jurisdiction. Therefore, the writ petition is liable to be dismissed.

6.3. The learned counsel for the respondents have relied on the following judgements:

1.Jyotirmay Ray Vs. Field General Manager, Punjab National Bank and others reported in 2023 SCC online SC 1452

2.N.Balaguriamy Vs.Indian Overseas Bank and others in

W.A.No.905 of 2023 dated 20.09.2024.

7. This Court heard both sides and perused the records.

8. In this case, there is no dispute that the 3rd respondent while working as Manager at Samalapuram Branch, sanctioned loan at 106 persons. According to the petitioner bank, without following the procedures disbursed the loan to the borrowers and thereby caused loss to the bank to the tune of Rs.9.83 crores and they also issued a charge memo and thereafter conducted domestic enquiry where the enquiry officer rendered findings that charges were proved.

9. Thereafter, the disciplinary authority imposed punishment of dismissal from service as against the petitioner. The said dismissal order was challenged through an appeal by the 3rd respondent, which was also dismissed. Thereafter, the petitioners' bank once again passed order forfeiting gratuity amount of the 3rd respondent.

10. The 3rd respondent approached the Controlling Authority under the Payment of Gratuity Act i.e., 2nd respondent. The 2nd respondent allowed the petition and directed the bank to release the gratuity amount.

As against the said order, the petitioner bank preferred an appeal before the 1st respondent and the same was also dismissed. The 1st respondent, in the order recorded that the petitioner bank issued notice to the 3rd respondent proposing forfeiture of the gratuity amount under section 4(6)(b) Payment of Gratuity Act. In order to attract section 4(6)(b), the involvement of moral turpitude is the condition precedent. As far as the moral turpitude is concerned, the Criminal Court has to decide. The invoking of the provisions of the act in respect of the offence committed by the delinquent is premature for the bank to invoke section 4(6) of the Payment of Gratuity Act to forfeit the entire gratuity amount.

11. The learned counsel for the 3rd respondent stated that the irregularities committed by the delinquent may have exposed the bank to such loss. However that is entirely different from the loss having been actually suffered by the bank. Even in respect of the same, the bank filed suit for recovery of money concerning those amounts. However, the said act would not automatically lead to conclusion that the loss and damage has been suffered by the Bank due to 3rd respondent. It is possible that bank is able to recover the money in the recovery of money proceedings

by finding out as to whether such act of the 3rd respondent in fact happened or not and as to whether the loss is actually suffered by the bank or not. Based on the findings upon such determining questions which emanate either from the charge sheet framed against the 3rd respondent or enquiry report of the disciplinary authority, the action of forfeiting the gratuity payable to the 3rd respondent can be decided at that stage. Only after determination of findings if found that such act of the 3rd respondent in fact really constituted an offence involving moral turpitude, at such point of time only, forfeiture order can be passed by the bank.

12. However, in the case on hand, the appellate authority confirmed the order of the Controlling Authority, by holding that forfeiture of gratuity of the 3rd respondent is not tenable when there is no findings arrived at by the Bank, with regard to loss or damage of funds of the Bank.

13. As rightly pointed out by the learned counsel for the petitioner that the Appellate Authority must record reasons in support of his conclusions and the reasons in support of decisions must be clear and

succinct. In the case on hand, the 1st respondent/Appellate Authority has not passed a reasoned order.

14. It is relevant at this stage to state that, this court, before proceeding with the matter on the merits of the case, in the preceding paragraphs, pointed out that the Appellate Authority has passed a non speaking order. It is further pointed out that the appellate authority had only narrated the facts of the case and arguments of the counsels, however, without discussing about the facts and arguments put forth by both sides and without forming an opinion on the subject issue and further without giving reasons for allowing the appeal in favour of the 3rd respondent, the appellate authortiy, had passed simply a non speaking order.

15. In the light of the above discussion, this court is of the view that the order passed by the appellate authority as a non-speaking order and this court is unable to find out the reasons arrived at by the appellate authority for allowing the appeal. Therefore, it is appropriate to set aside the order passed by the appellate authority. Therefore, this court deems it appropriate to remand back the case to the appellate authority for passing

a speaking order.

16. As far as judgments relied upon by the learned counsel for both sides are concerned, since the matter has been remanded back to the appellate authority, witout going into the merits of the matter, it is not appropriate for this court to discuss the judgments with regard to the case and discuss about the same at this stage.

17. In the result, the Writ Petition is allowed. The order passed by the appellate authority / 1st respondent is set aside and the matter is remanded back to the appellate authority for passing a speaking order by giving the most cogent reasons. The 1st respondent is directed to dispose of the appeal within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

20.08.2025

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Index : Yes / No
Internet : Yes/ No
Speaking Order/Non-speaking Order

To
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P.DHANABAL,J.

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