

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:013878-DB



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LPA No. 1052 of 2024(O&M)

Reserved on: 29.01.2025

Date of decision: 31.01.2025

National Insurance Company Ltd.

....Appellant

Versus

The Controlling Authority under Payment of Gratuity Act
and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH

HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. V. Ramswaroop, Advocate
for the appellant.

SUDHIR SINGH, J.

Challenge in the present intra Court appeal is to the order dated 18.01.2024 passed by the learned Single Judge, whereby the writ petition filed by the appellant was dismissed.

2. Before the learned Single Judge, the appellant had laid challenge to the order dated 25.06.2015 (Annexure P-6) passed by the Controlling Authority under the Payment of Gratuity Act, 1972 (for short 'the Act'), whereby respondent No.2 was held entitled to the amount of gratuity, which had been withheld by the appellant-company.

3. Respondent No.2 had been compulsorily retired from service from the post of Development Officer Grade-II. Post his retirement, he filed a claim before respondent No.1 under the Act, asserting therein that

he had rendered 33 years of service and that he was entitled to the payment of gratuity. His claim was contested by the appellant-company taking a stand that respondent No.2 had been accused of moral turpitude which has caused financial loss to the appellant-company. The said claim of respondent No.2 was allowed by respondent No.1 and he was held entitled to a sum of Rs.3,81,858/- with simple interest at the rate of 10% per annum.

4. Learned counsel appearing for the appellant-company has vehemently argued that the appellant had rightly withheld the gratuity of respondent No.2 on account of his gross mis-conduct which had caused grave financial loss to the appellant. It is further argued that respondent No.2 was involved in moral turpitude which amounted to a criminal offence. It is, thus, contended that the impugned orders passed by the learned Single Judge and that by respondent No.1, are liable to be set aside.

5. We have heard learned counsel for the appellant and have also gone through the impugned order.

6. The only question that requires consideration by this Court is whether the order passed by the learned Single Judge, requires any interference.

7. While passing the impugned order, the learned Single Judge has noticed in detail the conditions under which the gratuity of any employee can be withheld. Para-8 of the said order reads as under:

“Learned counsel for respondent No. 2 refers in specific sub-section (6) of Section 4 of the 1972 Act, wherein parameters have been defined under which an employee can be debarred from giving the benefit of gratuity. He submits that for applicability of said provision of law, employee is required to be terminated from service due to any of his act, wilful omission or

negligence causing any damage or loss or destruction of property belonging to the employer. However, there is nothing to point out with the petitioner-Company that any kind of loss or damage has been suffered by it because of the act of respondent No. 2. Even, termination is required to be followed by two reasons, which are enumerated under Section 4(6)(b) of the 1972 Act. Learned counsel, thus, submits that in the absence of any of the parameters required for forfeiting the payment of gratuity, respondent No. 2 cannot be deprived of his lawful right of payment of gratuity, which has been withheld by the petitioner-Company in an erroneous and illegal manner.”

8. Learned Single Judge, has also noticed that respondent No.1 in its order had clearly recorded that there was no financial loss caused by the employer i.e., the appellant-company and that there was violation of principles of natural justice. It was yet further found that the appellant-company did not issue any notice to respondent No.2 as regards the alleged financial loss suffered by it. Still further, it was also noticed that the appellant-company did not pass any specific order with regard to the forfeiture of gratuity of respondent No.2.

9. The submissions made by learned counsel for the appellant are mere reiteration of the stand taken before the learned Single Judge. Admittedly, respondent No.2 had been compulsory retired. Nothing was brought on record as to under what provisions of the Act, the gratuity of respondent No.2 had been withheld. There was neither any compliance of the principles of natural justice nor the appellant-company had passed any order in respect of withholding of the gratuity or as regards the alleged financial loss suffered by it due to any act and conduct of respondent No.2.

10. We find that the order passed by the learned Single Judge,

does not call for any interference.

11. In view of above, finding no merits, the present appeal is dismissed.
12. Pending application(s), if any, shall also stands disposed of.

(SUDHIR SINGH)
JUDGE

31.01.2025
reema

(SUKHVINDER KAUR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No