(2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2026:PHHC:019405-DB

LPA-431-2022 (O&M)
Date of Decision: 09.02.2026

Union Bank of India and another ..Appellants

Vs.

R.C. Rajput …Respondent

2026:PHHC:019405-DB

LPA-905-2021 (O&M)

Date of Decision: 09.02.2026

Union Bank of India and another ..Appellants

Vs.

R.K. Nuniwal …Respondent

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. K.K. Gupta, Advocate for the appellant(s).

Mr. Rajinder Paul, Advocate for
Mr. B.B. Bagga, Advocate for the respondent.

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ASHWANI KUMAR MISHRA, J. (Oral)

CM-1050-LPA-2022

Delay of 17 days in filing the appeal has been satisfactorily explained.

Accordingly, the application is allowed and delay of 17 days in filing the appeal is condoned.

MAIN CASES.

1. The question in both these appeals is as to whether an employee who has compulsorily retired on account of proved misconduct would be entitled to leave encashment/privilege leave or not?

2. Learned Single Judge has examined the controversy relying upon the judgment of the Madras High Court in Writ Petition No.15766 of 2013, titled as **D. Kalaichelvan vs. Union Bank of India**, decided on 01.04.2015. The judgment of the Madras High Court in D. Kalaichelvan (supra) was challenged before the Hon'ble Supreme and the SLP filed in the matter has also been dismissed.

3. Learned Single Judge has also taken note of a Full Bench decision of this Court in **UCO Bank and others vs. Anju Mathur 2013 (3) SCT 272**, wherein same controversy came up for determination before the Court. In para No.25 to 27, the Full Bench held as under:-

> *"25. At the outset, we are forced to remark that reasons given in Ashwani Kumar Sharma (supra) are not legally correct, as the compulsory retirement by way of punishment is also treated as ordinary termination of service on which we have already given our decision hereinabove.*
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> *26. We have also reproduced Regulation 38 of the Officers Regulations, which deals with leave encashment. This regulation states that leave shall lapse in certain circumstances. Proviso thereto, however, provides an explanation and makes a provision for leave encashment in those cases where an officer "retires" from service. The question is as to whether this retirement would mean retirement on attaining the age of superannuation or retirement caused by other modes as well, including compulsory retirement. It cannot be disputed that compulsory retirement occasioned otherwise than by way of penalty would be covered by the proviso and leave encashment*

would be admissible as in that eventuality also, the officer "retires" from service. However, unlike Regulation 46 of the Officers' Regulations, the cases where the retirement comes by way of penalty of compulsory retirement, are not excluded. Therefore, when an officer "retires" from service, in whatever manner, he is eligible for leave encashment. In the case of O.P. Garg (supra), this issue was specifically dealt with by this Court in the following manner:

> *"The petitioner in the present case had been wrongly denied encashment of leave through a careless mis-interpretation of Regulation 38 and without considering its proviso. From the Regulation 38 it would be revealed that all leave lapses on resignation, retirement, death, discharge, dismissal or termination. What this means is that on the happening of any of the above events an officer cannot insist that he should be permitted to continue in service to the extent of leave which still stood to his credit. Since leave lapses, the concerned officer must leave service. Funnily leave of an officer who dies while in service also lapse. It seems the framers of regulation probably thought that a dead person may continue on leave till the expiry of the leave to his credit, unless a regulation was framed.*
>
> *Be that as it may, it is the proviso to Regulation 38 which applies to the petitioner's case and has been actually discussed in Ashwani Kumar Sharma's case (supra). As regards payment of gratuity made to the petitioner of Rs. 2,17,351/- on August 16, 2001, learned counsel submitted that these amounts had been paid without interest and referred to the order Annexure P/7 dated December 29, 2003 regarding payment of simple interest @ 10% for the period July 27, 1999 to August 15, 2001 on the aforesaid gratuity amount. Although interest was not paid to the petitioner at the time of release of the principal amount of gratuity on August 16, 2001, a sum of Rs. 20325/- was the*

second installment received by the petitioner on November 17, 2004 but the second installment was paid without interest. Therefore, the petitioner is entitled to 10% interest on this amount from the due date (July 17, 1999) till the actual payment made on November 27, 2004.

In view of the above discussion, this petition is allowed. The petitioner shall be entitled to payment of emoluments for the period of privilege leave that he had earned (leave encashment) alongwith interest @ 10% from July 26, 1999 till date of payment."

27. We agree with the aforesaid reasons. We are, therefore, of the view that respondent would be entitled to leave encashment."

4. Learned Single Judge has, therefore, held the respondents entitled to leave encashment/privilege leave.

5. Learned counsel for the appellant(s) submits that the policy decision of the Indian Bank Association has not been examined by the Full Bench of this Court and such aspect has also escaped the attention of the Madras High Court.

6. Learned counsel for the respondent(s), however, submits that the learned Single Judge has rightly examined the controversy and no interference in the matter is called for.

7. We have heard learned counsel for the parties and perused the materials on record.

8. So far as the entitlement accruing to an employee who has been compulsorily retired by means of punishment, the issue came up for consideration before the Madras High Court in D. Kalaichelvan (supra). The question therein was as to whether such employee would be entitled to

pension or not. The judgment of the Madras High Court has been relied upon by the learned Single Judge to ascertain the nature of benefits which would be admissible to an employee on his compulsory retirement.

9. So far as the leave encashment is concerned, Regulation 38 of the Union Bank of India Officers (Service Regulations) 1979, regulates the grant of leave to the credit of an Officer of the bank. Regulation 38 does not contemplate that the leave admissible to an Officer shall be denied in a case of compulsory retirement. This issue has otherwise been dealt with by the Full Bench of this Court in Anju Mathur (supra). Para No.25 to 27 of the Full Bench judgment deals with Regulation 38 which is *pari materia* to the provisions of Regulation 38, herein. After examining the matter, the Full Bench came to the conclusion that an employee, who has been compulsorily retired as a result of punishment, would be entitled to leave encashment.

10. In that view of the matter, we do not find any substance in the appeals filed by the bank inasmuch the Full Bench judgment of this Court in the case of Anju Mathur (supra) squarely covers the controversy raised in the present matter. The appeals, therefore, are bereft of merit and are dismissed accordingly.

11. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

09.02.2026
rajesh

1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No