IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(244) **CWP-22151-2018 (O&M)**
Date of Decision : 21.04.2026

State Bank of India …Petitioner

Versus

Deputy Chief Labour Commissioner (Central),
Chandigarh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Anil Kumar Ahuja, Advocate
for the petitioner.

Mr. Piyush Khanna, Advocate
for respondents No.1 and 2.

Mr. B.B. Bagga, Advocate and
Mr. Rajinder Paul, Advocate for respondent No.3.

****

<u>KULDEEP TIWARI, J. (ORAL)</u>

1. Through the instant writ petition, cast under Article 226/227 of the Constitution of India, a challenge is thrown to the order dated 21.02.2017 (Annexure P-15), passed by learned Assistant Labour Commissioner (Central), Chandigarh (respondent No.2), whereby, the order passed by the petitioner/Bank, forfeiting the gratuity payable to respondent No.3, was set aside, and order dated 19.07.2018 (Annexure P-19), wherethrough, the statutory appeal preferred by the petitioner/Bank, was also dismissed by learned Deputy Chief Labour Commissioner (Central), Chandigarh (respondent No.1).

2. While placing reliance upon the Regulation 12(2) of the Gratuity Regulations, learned counsel for the petitioner submits that in case of

MANPREET SINGH
2026.04.29 15:18
I attest to the accuracy and
authenticity of this
order/judgment

termination of service in any other way except by punishment, that too after completion of 10 years of service, the petitioner/Bank is entitled to retain the gratuity amount. The second argument raised before this Court is that in case of loss suffered by the employer, the same can be recovered by virtue of the provisions of the Gratuity Act, itself.

3. Learned counsel for the petitioner has drawn the attention of this Court towards the order passed by disciplinary authority (Annexure P-7), wherethrough, the respondent No.3, was compulsorily retired on account of careless, negligent and dubious acts, which resulted in certain persons succeeding to defraud the Bank, in a number of cases, and on account of such lapse, an estimated loss to the Bank was reported to the tune of Rs.69.73 lacs plus interest. He further submits that the Branch Manager, State Bank of Patiala, Ganesh Ganj Branch, Lucknow, has quantified the loss, and reported the same to the Chief Manager, State Bank of Patiala, Head Office, Patiala, on 19.07.2012 (Annexure P-10), according to which, the Bank has suffered a loss of about Rs.68,27,882.53/-.

4. He next placed heavy reliance upon the order dated 27.08.2012 (Annexure P-11), passed by learned Deputy General Manager (Accounts), State Bank of Patiala, Pension, PF and Gratuity Department, Head Office, Patiala, to submit that on account of loss suffered, and as quantified (supra), the recovery was ordered to be effected. All these aspects have not been examined in its right perspective, and therefore, the order(s) impugned requires interference of this Court.

5. Finally, he placed reliance upon the judgment passed by Full Bench of this Court, in ***LPA No.566 of 2012***, decided on 07.03.2013, titled ***'UCO Bank and others vs. Anju Mathur' Law Finder Doc ID # 424169***, to

MANPREET SINGH
2026.04.29 15:18
I attest to the accuracy and
authenticity of this
order/judgment

submit that in case the authorities concerned, comes to a conclusion that no such loss has been quantified, the authorities instead of directing to pay the gratuity, should have remitted back the *lis* to the Bank, in case, there is absence of order of recovery by the competent authorities concerned, to serve the show cause notice, and thereupon, to pass an order of recovery.

6. On the other hand, learned counsel for respondent No.3, has put a fierce defense and submits that till date, no actual loss has been quantified by any competent authority. The respondent No.3, was compulsorily retired on 28.01.2012, and till date, he has not been paid his statutory dues of gratuity by the petitioner/Bank. He further submits that even no evidence whatsoever, was led before the authorities concerned, to establish the actual loss. Even, the instant writ petition also transpires nothing with regard to actual loss suffered by the petitioner/Bank, rather, the entire case revolves around an estimated cost of loss. He also submits that till date, neither a show cause notice was issued, nor any opportunity of hearing was given to respondent No.3, and only on the estimated loss report, forfeiture of the gratuity amount was made by the petitioner/Bank, which they are not entitled to retain.

7. This Court has examined the lengthy submissions made by learned counsels for both the parties.

8. Before this Court proceed further, at the first instance, it is imperative to have a glimpse upon the findings recorded by learned disciplinary authority, at the time of passing the punishment of compulsory retirement, in terms of Regulation 67(h) of State Bank of Patiala (Officer's) Service Regulations, 1979. The relevant is extracted hereinafter :-

> *"4. Keeping in view the above, it is evident that Shri B.S. Rana did not perform his duties with due devotion and*

MANPREET SINGH
2026.04.29 15:18
I attest to the accuracy and authenticity of this order/judgment

> *diligence. Due to his careless, negligent and dubious acts certain persons succeeded to defraud Bank in a number of cases. Lapses committed by Shri B.S. Rana are grave in nature. On account of lapses committed by him estimated loss to the bank is reported to be to the tune of Rs.69.73 lacs + intt. Therefore, on dispassionate application of my mind, I am of the considered view that I feel that ends of justice would be adequately met, if the penalty of "Compulsory Retirement" in terms of Regulation 67(h) of State Bank of Patiala (Officer's) Service Regulations, 1979, is imposed on him and I order so."*

9. Perusal of the above clearly reflects that the petitioner/Bank, at the time of passing the penalty of compulsory retirement has calculated the estimated loss, and not the actual loss. Even, in the letter dated 19.07.2012 (Annexure P-10), the Branch Manager concerned, who was not the disciplinary authority, has calculated the outstanding loan amount, which has been declared NPA against certain persons, *qua* which, no collateral security was deposited, and therefore, the petitioner/Bank has suffered a loss of more than Rs.68 lacs.

10. During the course of the arguments, this Court has put a specific query to learned counsel for the petitioner/Bank, as to whether, any recovery suit has been filed, to which, he answered in affirmative. However, he is unable to inform this Court with regard to the fate of those recovery suits. The second query raised by this Court, as to whether, any amount was got recovered through the said recovery suits, to which, learned counsel for the petitioner/Bank, is unable to answer as well.

11. This Court has also examined the order dated 27.08.2012 (Annexure P-11), passed by learned Deputy General Manager, who ordered the forfeiture of gratuity amount. It is not under dispute that learned Deputy

MANPREET SINGH
2026.04.29 15:18
I attest to the accuracy and
authenticity of this
order/judgment

General Manager, is not competent authority under the Service Regulations, to pass any order of forfeiture of gratuity amount. All these sequence of events, which are dealt with, clearly reflects two things; first, till date, the petitioner/Bank, is unable to quantify the actual loss suffered on account of negligence of respondent No.3, secondly, till date, the competent authority concerned, has not passed any order of cessation of gratuity after evaluation of the actual loss.

12. The Managing Director (Executive Trustee), has ordered to issue show cause notice to respondent No.3, which was approved by Chief Manager, and ordered the cessation of the gratuity amount, meaning thereby, the order was passed without any authority, rather it was the order which was against the directions of the Managing Director (Executive Trustee), who was only empowered to issue show cause notice.

13. In the light of above sequence of events, now the stage has arrived to deal with the ratio laid down by Full Bench of this Court in ***Anju Mathur's case (supra)***. In the said case, considering the procedural defect, liberty was afforded to the petitioner/Bank, to serve the show cause notice, indicating the actual loss, if any, with particulars of the said loss, and pass a final order after affording due opportunity of hearing to the respondent. The relevant is extracted hereinafter :-

> *"22. After considering these arguments, we find that argument of the learned counsel for the respondent has to prevail. We have gone through charge sheet as well as enquiry report. No doubt, in the chargesheet as many as 24 accounts are mentioned where the respondent had given loans or other financial accommodation either beyond her powers or without obtaining proper securities. That would show that certain accounts were overdrawn.*

MANPREET SINGH
2026.04.29 15:18
I attest to the accuracy and
authenticity of this
order/judgment

Even the operation of these accounts was not satisfactory, However, whether the appellant-Bank ultimately suffered loss and what was the actual loss is not reflected. No doubt, the irregularities committed by the respondent may have exposed the Bank to such losses. However, that is entirely different from loss having been actually suffered by the bank. Even if some accounts became bad and the Bank had to file suits for recovery concerning those accounts against the defaulting parties, that would not automatically lead to the conclusion that the loss/damage has been suffered. It is possible that Bank is able to recover full money in those proceedings. Whether that happened in fact or not and whether loss is actually suffered or not is not discernible from either the charge-sheet or the enquiry report.

23. It is for this reason that it was incumbent upon the appellant-Bank to mention specifically about the actual loss having been suffered, if it suffered, in the show cause notice itself with particulars of that loss in order to enable the respondent to meet the same. That has not been done even in the final order. Though the figure of L 4 crores is given, in the final order, even that is not substantiated by giving particulars thereof. We are, therefore, of the opinion that the show cause notice or the final orders passed, forfeiting the gratuity, do not meet the legal requirements and have to be set aside.

24. The upshot of the aforesaid discussion would that though we disagree with the reasons given by the learned single Judge allowing the writ petition and also that Ashwani Kumar Sharma (supra) does not lay down correct law, insofar as present case is concerned, still the impugned order forfeiting the gratuity has to be set aside for the reasons given above. At the same time, since it is a procedural defect, liberty is given to the Bank to serve proper show cause notice Indicating actual loss, if any,

MANPREET SINGH
2026.04.29 15:18
I attest to the accuracy and authenticity of this order/judgment

with particulars of the said loss and pass final orders after giving due opportunity of being heard to the respondent."

14. The case at hand, is entirely on different pedestal. As already mentioned above, through the sequence of events, that till date, neither the petitioner/Bank, is able to establish the actual loss suffered by them, nor any competent authority has passed any legal order of forfeiture of gratuity amount, on the basis of actual loss suffered. The respondent No.3/employee, who has fought the legal battle for the last about a decade, therefore, he cannot be deprived of the benefit of fruit ripened on account of the impugned order dated 21.02.2017 (Annexure P-15), passed by respondent No.2. Therefore, this Court is of the considered opinion that the gratuity amount may be released in favour of the respondent No.3/employee, against an adequate security. Therefore, the petitioner/Bank, is at liberty to first quantify the loss by the competent authority, if any, and thereupon, issue a show cause notice for effecting any recovery from the respondent No.3/employee.

15. Consequently, the instant writ petition is, **disposed of** with aforesaid liberty.

16. Needless to say, if the petitioner/Bank, opts for exercise of assessing the actual loss, if any, the same shall be conducted within a period of three months, from the date of receipt of certified copy of this order.

17. Pending miscellaneous applications, if any, stands disposed of accordingly.

(KULDEEP TIWARI)
JUDGE

April 21, 2026
Manpreet

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

MANPREET SINGH
2026.04.29 15:18
I attest to the accuracy and authenticity of this order/judgment