



CWP-39044-2025(O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-39044-2025(O&M)

Date of Decision :02.04.2026

Sarv Haryana Gramin Bank

.. Petitioner

Versus

The Deputy Chief Labour Commissioner
(Central) & ors.

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tarun Dhingra, Advocate
for the petitioner.**HARPREET SINGH BRAR, J. (ORAL)**

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing of the order dated 18.07.2022 (Annexure P-8) passed by the Controlling Authority-cum-Assistant Labour Commissioner (Central), Karnal, whereby the application moved by respondent No.3 for payment of gratuity was allowed, and the order dated 16.12.2024 (Annexure P-10) passed by the Deputy Chief Labour Commissioner (Central), Chandigarh, the appellate authority under the Payment of Gratuity Act, 1972, dismissing the petitioner's appeal. A further prayer has been made for directing the official respondents not to give effect to the said orders and to return the amount deposited by the petitioner at the time of filing the writ petition before respondent No.1, along with interest.

CONTENTIONS

2. Learned counsel for the petitioner *inter alia* contends that respondent No.3 was appointed in the year 1988. While working as a



Manager with the petitioner-Bank, he was served with a charge sheet on 30.05.2013 and a supplementary charge sheet on 30.06.2014 under the major penalty proceedings and Vigilance category, as per the provisions of the Sarva Haryana Gramin Bank (Officers and Employees) Service Regulations, 2010, with regard to serious irregularities committed by him. Regular departmental proceedings were conducted by following the prescribed procedure. The respondent No.3 was found guilty of unauthorised and corrupt practices based on proven charges. Learned counsel further submits that all the charges clearly reflect upon his integrity. The respondent No.3 indulged in the practice of sanctioning loans under various schemes without ensuring the availability of security and without complying with KYC norms, which exposed the petitioner-Bank to financial loss. Furthermore, the fraud perpetrated on the petitioner-Bank was also reported to the police authorities. Thereafter, the disciplinary authority, after taking into consideration the material available on record, ordered the compulsory retirement of respondent No.3 on 12.03.2018. The respondent No.3 filed a statutory appeal, which was dismissed on 08.06.2018 (Annexure P-4). Subsequently, a show cause notice for forfeiture of gratuity was issued on 07.03.2019 (Annexure P-5) due to the loss suffered by the petitioner-Bank.

2.1 Following which the respondent No.3 approached the Controlling Authority seeking release of gratuity on 17.10.2019. The Controlling Authority allowed the application on 18.07.2022 vide the impugned order (Annexure P-8), directing the petitioner to pay an amount of ₹10,89,830/- as gratuity along with simple interest at the rate of 10% per annum. The petitioner-Bank filed an appeal, but the appellate authority dismissed the same on 16.12.2024 (Annexure P-10) without proper



consideration. The petitioner has challenged both orders as being illegal and contrary to the provisions of the Payment of Gratuity Act, 1972. In support of his contention, learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court in ***Western Coal Fields Ltd. vs. Manohar Govinda Fuzele, 2025 SCC Online SC 345***, and submits that for forfeiture of gratuity, a conviction in a criminal case is not a *sine qua non* for constituting an offence involving moral turpitude and that the determination of moral turpitude lies with the disciplinary/appointing authority.

OBSERVATION & ANALYSIS

3. I have heard counsel for the petitioner and perused the record with his able assistance.

4. This Court is of the considered view that it is well-settled that the powers under Article 226 of the Constitution of India are to be exercised only where the findings recorded by an authority are arbitrary, suffer from procedural illegality, or disclose manifest prejudice. This Court cannot re-appreciate the matter on merits and substitute the conclusion drawn by the concerned authority with its own. Tritely, a High Court cannot sit in appeal with respect to the decision arrived. As such, this Court must confine itself to ensuring that the findings rendered are justified by the material available on record, that the proceedings were conducted in compliance with the prescribed procedure as well as the principles of natural justice. A two-Judge Bench of the Hon'ble Supreme Court in ***South Indian Bank Ltd. v. Naveen Mathew Philip, (2023) 17 SCC 311***, speaking through Justice M.M. Sundresh, has observed as follows in this regard:

“13. A writ of certiorari is to be issued over a decision when the court finds that the process does not conform to the law or statute. In other words, courts are not expected to substitute themselves with the decision-making authority while finding fault with the process



along with the reasons assigned. Such a writ is not expected to be issued to remedy all violations. When a tribunal is constituted, it is expected to go into the issues of fact and law, including a statutory violation. A question as to whether such a violation would be over a mandatory prescription as against a discretionary one is primarily within the domain of the Tribunal. So also, the issue governing waiver, acquiescence, and estoppel. We wish to place reliance on the decision of this Court in *Hari Vishnu Kamath v. Syed Ahmad Ishaque* [*Hari Vishnu Kamath v. Syed Ahmad Ishaque*, (1954) 2 SCC 881 : (1955) 1 SCR 1104] : (SCC pp. 898-900, paras 24-27):

“24. Then the question is whether there are proper grounds for the issue of certiorari in the present case. There was considerable argument before us as to the character and scope of the writ of certiorari and the conditions under which it could be issued. The question has been considered by this Court in *Parry & Co. Ltd. v. Commercial Employees' Assn.* [*Parry & Co. Ltd. v. Commercial Employees' Assn.*, (1952) 1 SCC 449] , *G. Veerappa Pillai v. Raman & Raman Ltd.* [*G. Veerappa Pillai v. Raman & Raman Ltd.*, (1952) 1 SCC 334] , *Ebrahim Aboobakar v. Custodian of Evacuee Property* [*Ebrahim Aboobakar v. Custodian of Evacuee Property*, (1952) 1 SCC 798] and quite recently in *T.C. Basappa v. T. Nagappa* [*T.C. Basappa v. T. Nagappa*, (1954) 1 SCC 905] . On these authorities, the following propositions may be taken as established:

24.1. Certiorari will be issued for correcting errors of jurisdiction, as when an inferior court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it.

24.2. Certiorari will also be issued when the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice.

24.3. The Court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the Court will not review findings of fact reached by the inferior court or Tribunal, even if they be erroneous. This is on the principle that a Court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy, if a superior court were to rehear the case on the evidence, and substitute its own findings in certiorari. These propositions are well-settled and are not in dispute...



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...The position was thus summed up by Morris, L.J. : (R. case [R. v. Northumberland Compensation Appeal Tribunal, ex p Shaw, (1952) 1 KB 338 (CA)] , KB p. 357)

'It is plain that certiorari will not issue as the cloak of an appeal in disguise. It does not lie in order to bring up an order or decision for rehearing of the issue raised in the proceedings. It exists to correct error of law where revealed on the face of an order or decision, or irregularity, or absence of, or excess of, jurisdiction where shown.'

27. In G. Veerappa Pillai v. Raman & Raman Ltd. [G. Veerappa Pillai v. Raman & Raman Ltd., (1952) 1 SCC 334] , it was observed by this Court that under Article 226 the writ should be issued : (SCC p. 341, para 26)

'26. ... in grave cases where the subordinate tribunals or bodies or officers act wholly without jurisdiction, or in excess of it, or in violation of the principles of natural justice, or refuse to exercise a jurisdiction vested in them, or there is an error apparent on the face of the record....'

In T.C. Basappa v. T. Nagappa [T.C. Basappa v. T. Nagappa, (1954) 1 SCC 905] the law was thus stated : (SCC p. 915, para 11)

'11. ... An error in the decision or determination itself may also be amenable to a writ of "certiorari" but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by "certiorari" but not a mere wrong decision.'"

(Emphasis supplied)

4.1. Admittedly the Controlling Authority, vide order dated 18.07.2022 (Annexure P-8), allowed the application moved by respondent No.3 for payment of gratuity. The Appellate Authority, vide order dated 16.12.2024 (Annexure P-10), upheld the said findings of the Controlling Authority and dismissed the petitioner-Bank's appeal. Admittedly, the Appellate Authority recorded that there was no finding as to any loss caused by respondent No.3 to the petitioner-Bank on account of his misconduct.



While advertng to Section 4(6) of the Payment of Gratuity Act, 1972, which provides that gratuity may be forfeited to the extent of the damage or loss where an employee's services are terminated for any wilful omission or negligence resulting in loss to the employer, it was observed that the burden squarely lies on the employer to establish such loss. In the present case, the Appellate Authority found no evidence of any monetary loss attributable to respondent No.3 arising from his alleged wilful misconduct. The Appellate Authority, therefore, held that the petitioner-Bank had failed to make out a case for forfeiture of gratuity under Section 4(6) of the Act of 1972.

4.2. Thus, this Court is of the considered opinion that the Controlling Authority and the Appellate Authority in the present case have passed well-reasoned orders and the findings recorded therein are neither arbitrary nor tainted by any procedural or jurisdictional irregularity, nor do they disclose any manifest error apparent on the face of the proceedings. This Court is satisfied that the conclusions reached are duly supported by the material on record and that the proceedings were conducted in accordance with the prescribed procedure as well as the principles of natural justice. The petitioner-Bank has failed to place any material on record to establish that any quantifiable loss was caused by respondent No.3 so as to attract the provisions of Section 4(6) of the Payment of Gratuity Act, 1972.

5. It is undisputed that the service of the respondent No.3 was not terminated rather the respondent No.3 was made to “compulsorily retire”. A punitive measure such as dismissal of service stands on a different footing than "compulsory retirement”. A Constitutional Bench of the Hon’ble Supreme Court in *Shyamlal v. State of Uttar Pradesh 1954 INSC 34*, while speaking through Justice S.R Das observed that,



“18. Finally, rule 49 of the Civil Services (Classification, Control and Appeal) Rules clearly indicates that dismissal or removal is a punishment. This is imposed on an officer as a penalty. It involves loss of benefits already earned. **The officer dismissed or removed does not get pension which he has earned. He may be granted a compassionate allowance by that.** Under Article 353 of the Civil Service Regulations, is always less than the pension, actually earned and is even less than the pension which he would have got had he retired on medical certificate. **But an officer who is compulsorily retired does not lose any part of the benefit that he has earned.**

On compulsory retirement he will entitled to the pension etc. that he has actually earned. There is no diminution of the accrued benefit. It is said that compulsory retirement, like dismissal or removal, deprives the officer of the chance of serving and getting his pay till he attains the age of superannuation and thereafter to get an enhanced pension and that is certainly a punishment. It is true that in that wide sense the officer may consider himself punished but there is a clear distinction between the loss of benefit already earned and the loss of prospect of earning something more.

In the first case it is a present and certain loss and is certainly a punishment but the loss of future prospect is too uncertain, for the officer may die or be otherwise incapacitated from serving a day longer and cannot, therefore, be regarded in the eye of the law as a punishment. **The more important think is to see whether by compulsory retirement the officer loses the benefit he has earned as he does by dismissal or removal. The answer is clearly in the negative.** The second element for determining whether alternation of service amounts to dismissal or removal is, therefore, also absent in the case of termination of service brought about by compulsory retirement.”
(Emphasis supplied)

5.1. Further, a Constitutional Bench of the Hon’ble Supreme Court in ***Moti Ram Deka v. General Manager North East Frontier Railway 1963 INSC 244***, while speaking through Justice P.B. Gajendragadkar observed that,

“146. In a still more recent case AIR 1960 Supreme Court 1305, it was held by this Court that an **order of compulsory retirement of a public servant for administrative reasons under Rule 278 of the Patiala State Regulations which Regulations did not fix the minimum age or length of service**



after which an order of compulsory retirement could be made, was not one of dismissal or removal from service within the meaning of Article 311(2) of the Constitution, because retirement under a Service Rule which provided for compulsory retirement at any age irrespective of the length of service put in, cannot necessarily be regarded as dismissal or removal within the meaning of Article 311, and the observations (hereinbefore quoted) made by Venkatarama Aiyar, J., in Saubhagchand Doshi's case 1958 SCR 571 were for the purposes of deciding that case obiter, and that it was not a general rule that an order of compulsory retirement not amounting to dismissal or removal can take place only under a rule fixing the age of compulsory retirement.”
(Emphasis supplied)

5.2 A conjoint reading of the principles laid down by the Constitution Benches of the Hon’ble Supreme Court in *Shyam Lal (supra)* and *Moti Ram Deka (supra)*, together with Section 4(6)(b) of the Payment of Gratuity Act, 1972, clearly delineates the distinction between “compulsory retirement” and “termination” for the purpose of forfeiture of gratuity. The Constitution Benches have unequivocally held that dismissal or removal is a punitive measure, entailing stigma and loss of accrued benefits, whereas even where compulsory retirement is imposed as a penalty, it does not entail loss of accrued benefits nor does it carry the same consequences as dismissal or removal, but merely curtails the future tenure of service. In contradistinction, Section 4(6)(b) predicates forfeiture of gratuity exclusively upon “termination” of services on specified grounds such as riotous or disorderly conduct, acts of violence, or offences involving moral turpitude, each of which inherently postulates a punitive severance of service founded on proved misconduct.

5.3 Conclusively a Three Judge Bench of the Hon’ble Supreme Court in *Union of India v. Shri Dulal Dutt 1993 INSC 47*, examined the order of compulsory retirement of a Controller of Stores in Indian Railway



and held that an order of compulsory retirement is not an order of punishment. It is a prerogative of the Government but it should be based on material and has to be passed on the subjective satisfaction of the Government and that it is not required to be a speaking order. The Hon'ble Apex Court while speaking through Justice **Yogeshwar Dayal** held as under:

*“18. It will be noticed that the Tribunal completely erred in assuming, in the circumstances of the case, that there ought to have been a speaking order for compulsory retirement. **This Court, has been repeatedly emphasising right from the case of R.L Butail v. Union of India, (1970) 2 SCC 876 and Union of India v. J.N. Sinha, (1970) 2 SCC 458 that an order of a compulsory retirement is not an order of punishment.** It is actually a prerogative of the Government but it should be based on material and has to be passed on the subjective satisfaction of the Government. Very often, on enquiry by the Court the Government may disclose the material but it is very much different from the saying that the order should be a speaking order. No order of compulsory retirement is required to be a speaking order. From the very order of the Tribunal it is clear that the Government had, before it, the report of the Review Committee yet it thought it fit of compulsory retiring the respondent. The order cannot be called either mala fide or arbitrary in law.:”*

(Emphasis added)

5.3 The consistent use of the expression “terminated” in the provision, and the absence of any reference to “compulsory retirement”, is legally significant and cannot be treated as inadvertent. Thus, the statutory scheme, when read in harmony with the settled constitutional position, makes it evident that “termination” in this context must be construed as punitive termination involving stigma and forfeiture of earned benefits, and not every cessation of service. Consequently, compulsory retirement, even when imposed as a penalty, does not result in forfeiture of accrued benefits and preserves accrued rights, operating in a distinct legal field and cannot be equated with termination for the purposes of forfeiture of gratuity particularly in the absence of a stigmatic severance of service accompanied



by statutory grounds for forfeiture. The two concepts are, therefore, not synonymous but stand on fundamentally different footings; and in the absence of a punitive termination as contemplated under Section 4(6)(b), the very foundation for invoking forfeiture of gratuity is lacking.

6. Furthermore the issue regarding withholding gratuity on account of compulsory retirement has been conclusively dealt with by a Two Judge Bench of the Hon'ble Supreme Court in ***Jyotirmay Ray v. The Field General Manager, Punjab National Bank 2023 INSC 979***, which while speaking through Justice J.K. Maheshwari observed as under:

*“20. The Bank harmonizing the provisions of Regulation 46 of 1979 Regulations and the Gratuity Act issued Circular No. 1563 on 16.01.1997 through its personnel division. Therein harmonizing the Regulations with the provisions of the Gratuity Act and in clauses 8 and 14 of the Circular, the instances as to **when gratuity could be forfeited**, have been specified. Those clauses are relevant and have been reproduced as under:*

"8. FORFEITURE OF GRATUITY UNDER ACT

The gratuity payable under the payment of gratuity act, is liable to full or partial forfeiture under different circumstances. Section 4(1) of payment of gratuity act deals to payment of gratuity whereas section 4(6) of the act deals with forfeiture of gratuity. Section 4(1) reads as under:

Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five Years,

- a. On his superannuation, or*
- b. On his retirement or resignation, or*
- c. On his death or disablement due to accident or disease.*

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement.

Section 4(6) provides as under:

"Notwithstanding anything contained in sub-section (1)

- a. The gratuity of an employee, **whose services have been terminated** for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employee, **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.

*1) 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.

14. PAYMENT UNDER OFFICERS SERVICE REGULATIONS

Rules relating to payment of gratuity of officers staff have been laid down under Regulation 46 of PNB Officers Service Regulations, 1979 which is as under:-

(I) Every officer shall be eligible for gratuity on:

(a) Retirement, (b) death (c) disablement rendering him unfit for further service as certified by a medical officer approved by the bank, or (d) resignation after completing ten years of continuous service or termination of service in any other way except by way of punishment after completion of 10 years of service.

Explanation: We have to clarify that gratuity may be paid in case of termination of service, subject to the condition that the officers has put in at least 10 years of service with the bank and provided that the termination is not by way of dismissal or removal from service as punishment.

(II) 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 one half of month pay for each completed year of service beyond thirty years.

Pay for the purpose of gratuity in case of officer shall mean basic pay only. While calculating gratuity, that part of PQA & FPA drawn by an officer, which rank for superannuation benefit, shall also be taken into account.

Note: If the fraction of service beyond completed years of service is six months or more, gratuity will be paid pro-rata for the period. In this connection, we have to clarify that for the purpose of calculating gratuity, the number of days, beyond 6 months period is also to be taken into account.”

On a combined reading of the provisions of the Gratuity Act, 1979 Regulations and the circular, it becomes clear that the **gratuity shall become payable to every officer on retirement, death, disablement or on resignation except in a case of termination of service** in any other way, by way of punishment after completion of 10 years of continuous service.

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26. The counsel for appellant also relied upon the judgement of B.R. Sharma (supra), in which the riotous behaviour of the employee was found proved. However, the said judgment does not apply in the facts of the present case. Similarly, reliance was also placed on the case of Canara Bank (supra) wherein as per the Regulations of the Canara Bank, the withholding of the amount of gratuity to the extent of loss



*caused was permissible. In the facts of the present case and contents of Regulations and Circular of the Bank, the said judgment being distinguishable, has no application. **The learned Single Judge has correctly observed that as per the 1977 Regulations, compulsory retirement; removal from service which shall not be a disqualification for future employment and dismissal which shall ordinarily be a disqualification for future employment are distinct and separate punishments. The act of forfeiture of gratuity is not envisaged in the present case as the provisions are silent on the aspect of forfeiture in case of compulsory retirement.** As per Circular No. 1563 dated 16.01.1997 of the Bank, in our view, the Division Bench erred in reversing the judgment of the learned Single Judge.”*

(emphasis added)

6.1 The ratio that emerges is that even in cases where compulsory retirement is imposed after disciplinary proceedings, gratuity cannot be withheld unless the exhaustive conditions stipulated in the Section 4(6) of the Payment of Gratuity, 1972 are met.

7. Moreover, the Hon’ble Supreme Court in ***Y.K. Singla v. Punjab National Bank, (2013) 3 SCC 472*** has conclusively held that the provisions of the Payment of Gratuity Act, 1972 shall have a superior status in respect to any enactment (including any other instrument or contract) inconsistent therewith, insofar as the entitlement of an employee to gratuity is concerned. Thereby reinforcing that statutory conditions for forfeiture cannot be diluted by service regulations or administrative instructions.

8. The reliance placed on ***Western Coal Fields Ltd. (supra)*** by the learned counsel for the petitioner is misconceived, as the said case pertains to a situation involving termination of service, thereby satisfying the foundational requirement under Section 4(6). In contrast, the present case involves compulsory retirement, coupled with absence of any proven or quantified loss, and thus falls outside the statutory framework for forfeiture. Thus, the statutory trigger for invoking forfeiture is itself absent in the present case.

**CONCLUSION**

9. Consequently, this Court is of the considered view that the Controlling Authority as well as the Appellate Authority have rightly and judiciously appreciated both the facts and the applicable law, and have correctly concluded that the case does not fall within the ambit of Section 4(6) of the Payment of Gratuity Act, 1972. In the absence of any punitive termination as contemplated under the said provision, and further in the absence of any cogent evidence establishing or quantifying loss attributable to respondent No. 3, the essential statutory preconditions for forfeiture of gratuity remain unfulfilled. The impugned orders, therefore, do not suffer from any illegality, perversity, or jurisdictional error warranting interference in exercise of writ jurisdiction under Articles 226/227 of the Constitution of India.

10. Accordingly, finding no merit in the present petition, the same stands dismissed.

11. Pending miscellaneous application(s), if any, also stand disposed of.

02.04.2026
monika

(HARPREET SINGH BRAR)
JUDGE

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