2026:AHC:227029

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 16620 of 2017

General Manager F.C.I. And Another

.....Petitioner(s)

Versus

Union Of India And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Santosh Kumar Mishra
Counsel for Respondent(s)	:	A.S.G.I., Anil Kumar Bajpai, Krishna Mohan Misra, Saurabh Shukla

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Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Sri S.K. Mishra, learned counsel for petitioner is present, however, none appears on behalf of contesting respondent despite being represented by his advocate.

2. The petitioner before this Court is Food Corporation of India (FCI). A disciplinary proceeding was initiated against contesting respondent which ultimately resulted into an order of punishment dated 08.10.2014 whereby a penalty of compulsory retirement from service from the Corporation on the date of superannuation i.e. 31.10.2013 along with 100% forfeiture of gratuity was passed.

3. The contesting respondent has filed an statutory appeal to aforesaid order, however, fate of same remained negative and it appears that appellate order was not challenged further, accordingly, order of punishment attained finality.

4. The contesting respondent thereafter initiated a separate proceedings for gratuity under Payment of Gratuity Act wherein despite aforesaid facts were brought on record and an order of payment of gratuity of Rs. 10,00,000/- along with Rs. 2,50,000/- as interest was passed. The petitioner thereafter filed an appeal, however, its fate remained negative on a ground that effected person was not granted fullest opportunity to defend himself before arrival of decision of forfeiture of gratuity amount.

5. Learned counsel for petitioner submits that once an order under

disciplinary proceeding is passed whereby 100% interest over gratuity was withheld and that order attained finality. Proceedings under Gratuity Act will not act as an Appellate Authority.

6. Learned counsel refers provisions of Food Corporation of India Staff Regulations, 1971 and refers Clause 60B of said Regulation which is quoted below, which provides that gratuity amount can be withheld if pecuniary loss is caused to Corporation and admittedly, said Clause is not under challenged :-

> "60-B. Procedure for withholding of employer contribution of the pension corpus for recovery of pecuniary loss:
> (i) During initiation of the Disciplinary Proceeding by issue of charge sheet, the Disciplinary Authority may withhold pension corpus accumulated by the contributions made by the employer for ordering recovery from pension if, the employee is found to have caused pecuniary loss to the Corporation in the disciplinary or judicial proceedings while in service including service rendered on deputation or on re-employment after retirement.
> If, the disciplinary or judicial proceedings culminate in imposition of a penalty of compulsory retirement or removal from service or dismissal under Regulation 54(vii), (viii) or (ix) the employer's contribution to the pension corpus shall be forfeited.
> Provided the relevant provisions of DCPS/PFRDA Act, Regulations and Rules notified thereunder as the case may be, shall be kept in view."

7. Otherwise also, Court finds that Appellate Authority has not decided the matter considering entire case on facts as well as on law.

8. Court also takes note of following order dated 20.04.2017 passed in present writ :-

> "This writ petition has been filed to challenge the order passed by the Appellate Authority under the Payment of Gratuity Act dated 15.02.2017 and the order dated 09.05.2016 passed by the Controlling Authority under the same Act.
> It is the case of the petitioners that the respondent no.5 had been subjected to disciplinary proceedings and therefore, major punishment of

compulsory retirement and forfeiture of gratuity had been passed against the said respondent, against which departmental appeal is still pending.

It is further the case of the petitioners that during the pendency of the said departmental appeal, on an application filed by the respondent no.5 the Controlling Authority passed an order for payment of entire gratuity amount with interest. This order is dated 09.05.2016, which was served on the petitioners for the first time on 30.05.2016 and against that appeal has admittedly been filed on 20.07.2016.

Sri S.K.Mishra, learned counsel for the petitioners submits that the appeal so filed was within time and that even otherwise the order imposing punishment of forfeiture of gratuity was passed after affording an opportunity to the delinquent respondent no.5. As such he submits that the dismissal of the appeal on the ground of limitation and also for the alleged violation of principles of natural justice is wholly erroneous and perverse.

Matter requires consideration.

Issue notice to the respondent no.5 returnable at an early date.

Steps be taken within a week.

Sri Saurabh Shukla has filed his appearance slip on behalf of the respondents no. 1 to 3, is taken on record.

List on 22.05.2017, showing the name of Sri Saurabh Shukla as counsel for the respondents.

Till the next date of listing the operation and effect of the impugned orders dated 15.02.2017 and 09.05.2016 shall remain stayed."

9. In aforesaid circumstances, impugned order dated 15.02.2017 passed by Appellate Authority is set aside and matter is remitted back to concerned Authority to pass a fresh order after considering above referred observations made on facts as well as on law. Both parties shall be at liberty to file submissions on law as well as on facts.

10. Writ petition stands **disposed of** with above observations, directions and liberty.

(Saurabh Shyam Shamshery,J.)

November 2, 2026
N. Sinha

Digitally signed by :-
NIRMAL SINHA
High Court of Judicature at Allahabad