IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 12th OF MAY, 2026

WRIT APPEAL No. 3160 of 2025

CENTRAL MADHYA PRADESH GRAMIN BANK

Versus

SMT. BABITA MOR

Appearance:

Shri Rajesh Maindiretta with Shri Udit Maindiretta, Advocate for appellants.

Shri PK Bajpai, Advocate for respondent.

ORDER

Per. Justice Pradeep Mittal

This appeal is filed against the order dated 06.10.2025 passed by the learned Single Judge in W.P. No. 21393 of 2021 whereby the petition filed by the writ petitioner was allowed and the Bank was directed to pay gratuity amount to the writ petitioner.

2. The respondent/writ petitioner is widow of late Rajesh Mor, who was dismissed officer of respondent-Bank. She claims gratuity that was payable to her deceased husband. The deceased husband of the petitioner, who was serving as a bank officer, was subjected to departmental proceedings pursuant to a charge sheet dated 30.08.2016 alleging that he failed to open the bank branch on 30.07.2016 despite being In-charge and

had committed defalcation of Rs. 1.00 lakh from the branch cash chest on 29.07.2016. Upon both charges being proved in the departmental enquiry, he was dismissed from service vide order dated 30.04.2017, which was affirmed in appeal on 02.11.2017. He subsequently expired on 19.11.2017.

3. Thereafter, the respondent/writ petitioner sought release of gratuity, but the same was rejected by the bank vide order dated 20.01.2018 on the ground that gratuity is not payable in cases of dismissal under Section 4(6)(b) of the Payment of Gratuity Act read with Clause 72(e) of the Bank's Service Regulations. The respondent/writ petitioner thereafter filed WP No. 7205/2020, pursuant to which the bank reconsidered the matter and passed a fresh order dated 18.08.2021, again rejecting the claim for gratuity on the ground that, being an officer dismissed for misconduct, the deceased employee attracted forfeiture of gratuity under Clause 72(2) of the Service Regulations, and the proviso thereto was held inapplicable. Thereafter, the writ petitioner filed W.P. No. 21393 of 2021, which was allowed as aforesaid. Hence, the present writ appeal has been filed by the Bank, raising the following grounds.

4. It is stated by the learned counsel for appellant-Bank that the appellants have challenged the impugned order primarily on the grounds that the service conditions of the respondent's husband were governed by the Service Regulations, under which gratuity stood forfeited upon dismissal for misconduct. It is contended that the learned Single Judge erred in applying the provisions of the Payment of Gratuity Act, 1972 instead of Regulation 72 of the Service Regulations and wrongly relied upon an inapplicable

judgment. It is further submitted that the learned Single Judge failed to consider the applicability of the decision of the Hon'ble Supreme Court in P. Rajan Sandhi vs. Union of India and incorrectly held that gratuity was payable on the ground that no criminal offence had been committed by the deceased employee. Accordingly, it is urged that the impugned order is erroneous, unsustainable in law, and liable to be set aside.

5. It is also contended by the Bank that that bank has framed its own regulations known as Central Madhya Pradesh Gramin Bank (Officers and Employees) Service Regulations, 2010 and as per Clause- 72 of the Regulations, gratuity stands forfeited as the deceased husband of the writ petitioner was not an 'employee' in terms of the Regulations but was 'officer' in terms of the said regulations and therefore, the proviso to Clause 72(2) extinguishes the right of the deceased husband to claim gratuity upon dismissal from service.

6. Per contra, the learned counsel for the respondent/writ petitioner vehemently argued that no loss had been caused to the bank, as the alleged amount of defalcation had already been deposited by the deceased employee at the relevant point of time. It was contended that, under Section 4(6) of the Payment of Gratuity Act, 1972, forfeiture of gratuity can be made only to the extent of the actual loss caused to the employer. Since no financial loss had ultimately been caused to the bank, the right of the deceased employee to receive gratuity had crystallized under the Act of 1972. It was further submitted that the proviso to Clause 72(2) of the Service Regulations must yield to the overriding provisions of the Payment of Gratuity Act, 1972.

7. The learned Single Judge while allowing the writ petition of the writ petitioner held that the provisions of the Payment of Gratuity Act, 1972 would prevail over the Service Regulations of the bank in view of Section 14 of the Act. Relying upon the decision of the Hon'ble Supreme Court in Jaswant Singh Gill v. Bharat Coking Coal Ltd., the Court observed that the Act of 1972 is a complete code and gratuity can be forfeited only in the circumstances specifically provided under Section 4(6) thereof. The learned Single Judge further held that the reliance placed by the bank on P. Rajan Sandhi v. Union of India was misplaced, as the said judgment related to a special enactment governing working journalists and was not applicable to the facts of the present case. It was further held by the learned Single Judge that forfeiture of gratuity on the ground of moral turpitude under Section 4(6)(b)(ii) is permissible only when the employee is convicted by a competent criminal court for an offence involving moral turpitude. In this regard, reliance was placed upon the judgment of the Hon'ble Supreme Court in Union Bank of India v. C.G. Ajay Babu. Since no criminal prosecution or conviction had been initiated against the deceased employee and the alleged defalcated amount had already been refunded, the writ court found that no financial loss had been caused to the bank and, therefore, gratuity could not be forfeited.

8. Heard the learned counsel for the parties and perused the record.

9. For ready reference Section 4 of the Payment of Gratuity Act, 1972 is reproduced as under:-

"4. Payment of Gratuity Act, 1972

Section 4(6) of the Payment of Gratuity Act, 1972 provides for forfeiture of gratuity in limited and specific circumstances, 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 employer, shall be forfeited to the extent of the damage or loss so caused.
(b) the gratuity payable to an employee 1[may be wholly or partially forfeited].
(i) 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."

10. The learned counsel for the appellant/Bank has placed reliance on the judgment of the Hon'ble Supreme Court in the case of **P Rajan Sandhi V. Union of India (2010) 10 SCC 338** wherein in para 11 it has held as under:-

"11. It may be seen that there is a difference between the provisions for denial of gratuity in the Payment of Gratuity Act and in the Working Journalists Act. Under the Working Journalists Act gratuity can be denied if the service is terminated as a punishment inflicted by way of disciplinary act, as has been done in the instant case. We are of the opinion that Section 5 of the Working Journalists Act being a special law will prevail over Section 4(6) of the Payment of Gratuity Act which is a general law. Section 5 of the Working Journalists Act is only for working journalists, whereas the Payment of Gratuity Act is available to all employees who are covered by that Act and is not limited to working journalists. Hence, the Working Journalists Act is a special law, whereas the Payment of Gratuity Act is a general law. It is well settled that special law will prevail over the general law, vide G.P. Singh's Principles of Statutory Interpretation, 9th Edn., 2004, pp. 133 and 134."

11. The reliance placed by the learned counsel for the bank on **P.**

Rajan Sandhi (supra) is wholly misplaced and does not assist the case of the appellants.

11(a). In the said judgment, the Hon'ble Supreme Court was dealing with a situation under the Working Journalists Act, 1955, which is a special enactment governing a specific category of employees, namely working journalists. It was in that context held that where a special statute contains provisions inconsistent with the Payment of Gratuity Act, 1972, the special law would prevail over the general law. However, the said principle has no application to the facts of the present case. The Service Regulations framed by the bank under the Regional Rural Bank Act, 1976 are not a special statutory enactment governing gratuity, nor do they override or exclude the applicability of the Payment of Gratuity Act, 1972. They are merely executive or regulatory instructions without statutory supremacy. Therefore, they cannot be used to dilute or override the protections granted under the Act of 1972.

11(b). On the other hand, the Payment of Gratuity Act, 1972 is a beneficial and welfare legislation intended to secure retiral benefits for employees and has overriding effect under Section 14 of the Act. In the absence of any competing special statute, its provisions, particularly Section 4(6), must strictly govern the field. Accordingly, the attempt of the appellants to rely on **P. Rajan Sandhi** (supra) is misconceived. The said judgment, instead of supporting the appellants, reinforces the settled principle that only a valid special statute can prevail over the Payment of Gratuity Act, which is not the situation in the present case. Hence, the respondent's entitlement to gratuity cannot be denied on the basis of the Service Regulations, and the findings of the learned Single Judge call for no interference.

12. Appellants' counsel has also placed reliance on the judgment rendered in the case of **Mahanadi Coalfields Ltd.** Vs. **Rabindranath Choubey (2020) 18 SCC 71**, wherein the Hon'ble Supreme Court in para 39 and 41 and 41.1 has held as under:-

> *"39. In Jaswant Singh Gill v. Bharat Coking Coal Ltd.3, it was held that the provisions of Section 4(6) of the Payment of Gratuity Act, 1972 would prevail over the non-statutory Bharat Coking Coal Ltd. a subsidiary of Coal India Ltd. Rules 34.2 and 34.3 and the provisions of the Payment of Gratuity Act, 1972, were considered. It was held that even if the disciplinary inquiry was initiated before attaining the age of superannuation, if the employee attains the gage of superannuation, the question of imposing a major penalty by removal or dismissal from service would not arise. Once the employee had retired and his services had not been extended for the purpose of imposing punishment a major penalty could not be imposed. It was also held that the rule framed by Coal India Ltd. are non-statutory rules, and in view of the provisions of the Payment of Gratuity Act, 1972, they cannot prevail. In the said case, the a order of dismissal was passed after the age of superannuation. It was found that misconduct did not cover the grounds mentioned in Section 4(6)(a) for recovery of the loss, nor it was the case of misconduct in which gratuity could have been withheld wholly or partially in the exigencies as provided in Section 4(6)(b).*
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> *41. We are unable to agree with the decision rendered in Jaswant Singh Gill Vs. Bharat Coking Coal Ltd. (2007) 1 SCC 663 inter alia for the following reason:-*
>
> *41.1. The order of termination was not questioned, nor the authority under the Payment of Gratuity Act, 1972 had jurisdiction to deal with it. "*

13. The appellants cannot derive any benefit from the observations made in paragraph 39 of **Mahanadi Coalfields** (supra). In fact, the said decision, when properly appreciated, does not support the case of the

appellants.

13(a) In Jaswant Singh Gill v. Bharat Coking Coal Ltd., it was clearly held that the provisions of Section 4(6) of the Payment of Gratuity Act, 1972 would prevail over non-statutory service rules, and that gratuity cannot be withheld or forfeited except in strict compliance with the statutory conditions. It was further held that even if disciplinary proceedings are initiated before superannuation, once the employee retires, a major penalty such as dismissal cannot be imposed unless the statute specifically permits it. It was also observed that the statutory provisions of the Act override non-statutory regulations, and gratuity can be denied only when the conditions under Section 4(6)(a) or 4(6)(b) are strictly satisfied.

13(b). However, in paragraph 41 of **Mahanadi Coalfields** (supra), the Hon'ble Supreme Court expressed its inability to agree with the decision in Jaswant Singh Gill v. Bharat Coking Coal Ltd., primarily on the ground that the order of termination therein was not under challenge and the Controlling Authority under the Payment of Gratuity Act did not have jurisdiction to examine the validity of dismissal.

13(c). Even this distinction, however, does not advance the case of the appellants in the present matter, as here the core issue relates to forfeiture of gratuity under Section 4(6) of the Act, which is a statutory provision having overriding effect. Since the conditions prescribed under Section 4(6) are not satisfied in the present case, the respondent remains entitled to gratuity in accordance with law.

14. Having heard learned counsel for the parties and upon due

consideration of the material available on record, we find no infirmity in the order passed by the learned Single Judge warranting interference in the present writ appeal.

15. It is not in dispute that the gratuity of the deceased employee has been withheld by the appellant-Bank solely on the basis of Clause 72 of the Central Madhya Pradesh Gramin Bank (Officers and Employees) Service Regulations, 2010. However, the entitlement and forfeiture of gratuity are governed by the provisions of the Payment of Gratuity Act, 1972, which is a beneficial welfare legislation having overriding effect by virtue of Section 14 thereof. The provisions of Section 4(6) clearly enumerate the limited circumstances in which gratuity may be wholly or partially forfeited.

16. In the present case, the appellants have failed to establish that the conditions contemplated under Section 4(6) of the Act of 1972 are satisfied. Although allegations of defalcation were levelled against the deceased employee in the departmental proceedings, it is an admitted position that the alleged amount had already been deposited and no pecuniary loss ultimately remained caused to the Bank. Therefore, forfeiture under Section 4(6)(a), which permits forfeiture only to the extent of actual loss caused to the employer, is not attracted.

17. Likewise, the requirements of Section 4(6)(b)(ii) are also not fulfilled, as no criminal prosecution was initiated and no conviction for an offence involving moral turpitude was ever recorded against the deceased employee by any competent criminal court. Mere dismissal from service pursuant to a departmental enquiry cannot, by itself, result in automatic

forfeiture of gratuity unless the statutory conditions prescribed under the Act are strictly satisfied.

18. The contention of the appellants-Bank that the proviso to Clause 72(2)(e) of the Central Madhya Pradesh Gramin Bank (Officers and Employees) Service Regulations, 2010 applies only to "employees" and not to "officers," and therefore the gratuity of the deceased husband of the writ petitioner was rightly forfeited, is untenable. A conjoint reading of Clauses 72(1), 72(2)(e), and Section 14 of the Payment of Gratuity Act, 1972 makes it clear that an officer, like an employee, is entitled to gratuity upon completion of qualifying service, and such statutory right cannot be forfeited except in accordance with the provisions of the Act, which prevail over any inconsistent regulation.

19. We are also in agreement with the finding recorded by the learned Single Judge that the reliance placed by the appellants on the judgment of the Hon'ble Supreme Court in **P. Rajan Sandhi** (supra) is wholly misconceived. The said decision was rendered in the context of the Working Journalists Act, 1955, which is a special enactment containing specific provisions relating to gratuity. The Service Regulations framed by the appellant-Bank do not enjoy such overriding statutory status so as to exclude the applicability of the Payment of Gratuity Act, 1972.

20. Similarly, the decision in **Mahanadi Coalfields Ltd.** (supra) also does not advance the case of the appellants. On the contrary, the statutory mandate contained in Section 4(6) of the Payment of Gratuity Act, 1972 continues to govern the issue of forfeiture of gratuity, and the appellants

have failed to bring the case within the ambit of the said provision.

21. The learned Single Judge has rightly appreciated the legal and factual aspects of the matter and has correctly held that the respondent/writ petitioner is entitled to receive the gratuity amount payable to her deceased husband. The findings recorded by the learned Single Judge are based on proper interpretation of the statutory provisions and settled principles of law and do not suffer from any perversity, illegality, or jurisdictional error requiring interference by this Court in exercise of appellate jurisdiction.

22. Accordingly, the writ appeal being devoid of merit is hereby dismissed. The order dated 06.10.2025 passed by the learned Single Judge in W.P. No. 21393 of 2021 is hereby affirmed. No order as to costs.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

MSP