



EMPLOYMENT LAW UPDATES

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THE SUPREME COURT INTERPRETS FORFEITURE OF GRATUITY PROVISION TO NECESSITATE TERMINATION ON ACCOUNT OF MISCONDUCT FOR AN OFFENCE INVOLVING MORAL TURPITUDE RATHER THAN CONVICTION IN A CRIMINAL PROCEEDING

The present SLP (C) No. 21957 of 2022 & SLP (C) No. 907 of 2025 were preferred by the appellant i.e. employer against impugned judgements which found forfeiture of gratuity to be not permissible under the provisions of the Payment of gratuity Act, 1972 (“PGA”), the impugned judgements relied on the previous order of the Supreme Court in Union of India and Ors. v. C.G. Ajay Babu (2018) 9 SCC 529.

The brief facts of the case involve the delinquent employee producing a fraudulent date of birth certificate to obtain appointment, the counsel for the employee argued that the gratuity is the fruit of his service which arises from his 22 years of long service to counter this the appellant contended that they would have not obtained the appointment if his actual date of birth had been disclosed at the time of appointment. Such fraudulent practice amounts to misconduct for an offence involving moral turpitude which calls for forfeiture of gratuity.

While delving into the provisions of the PGA, the Supreme Court observed that, sub clause (ii) of Section 4(6)(b) of the PGA enables forfeiture of gratuity, if the employee is terminated for any act which constitutes an offence involving moral turpitude, if the offence is committed in the course of his employment. An ‘Offence’ as defined in the General Clauses Act, means ‘any act or omission made punishable by any law and does not call for a conviction which definitely can only be on the basis of evidence led in a criminal proceeding.

The standard of proof required in a criminal proceeding is different from a disciplinary proceeding. The former requires a higher standard of proof beyond reasonable doubt while the latter is governed by ‘preponderance of probabilities’. The provision pertaining to forfeiture of gratuity does not speak of a conviction in criminal

proceedings for an offence involving moral turpitude, instead it provides for forfeiture in cases where employee is terminated for misconduct, which constitute an offence involving moral turpitude. Hence, the only requirement is for the disciplinary authority to decide as to whether the misconduct could, in normal circumstances, constitute an offence involving moral turpitude.

Thus, the forfeiture was held to be legal, due to appointment in itself being illegal.

THE SUPREME COURT ESTABLISHES GRANT OF LUMP SUM COMPENSATION INSTEAD OF REINSTATEMENT WITH BACK WAGES, WHERE IT IS MORE SUITABLE GIVEN THE CIRCUMSTANCES

The appellant i.e. the employer had terminated the services of a workman who was employed as a driver of a bus, due to a fatal accident occurred while he was behind the wheels. The termination was challenged before the Labour Court but relief was denied to the workman, upon appeal the High Court denied interference to the order of Labour Court. Thereafter, the case was taken up in the Motor Accidents Claims Tribunal, wherein it was categorically held that the accident was due to the negligence of lorry driver who was coming from the other side charging towards the workman’s bus. Based on the set of facts, the Supreme Court granted the workman back wages with full terminal benefits and interest. Further, the Supreme Court in this Civil Appeal No. 13834 of 2024 observed that the courts may be confronted with cases where grant of lumpsum compensation, instead of reinstatement with back wages, could be the more appropriate remedy. The courts may, in such cases, providing justification for its approach direct such lumpsum compensation to be paid keeping in mind the interest of the employee as well as the employer.

TRANSFER POLICY BASED ON JUST AND FAIR CLASSIFICATION SUCH AS AGE FACTOR IS VALID AND NOT VIOLATIVE OF ARTICLE 14

The petitioners challenged the transfer policy which provides for place of posting based on the score obtained by an employee. As per the policy, 60 marks earmarked age, the higher the age the higher the marks, resultantly the younger employees are not likely to get posting of their choice. Further, there are negative marks for negative performance. It was

contended by the petitioners that the transfer policy was violative of Article 14 (Right to equality). The Punjab and Haryana High Court (“PHHC”) considered the observation of Hon’ble Supreme Court, where it was concluded that it is not function of the Court to sit in judgment over matters of economic policy and they must necessarily be left to Government of the day to decide, the court does not have expertise to correct the administrative decision. Legality of policy and not the wisdom or soundness of policy, is the subject of judicial review. Basis the analysis of the Supreme Court, the PHHC in this CWP 25754-2023, observed that every employee who is working with respondent is bound to retire on attaining the age of superannuation i.e. 58 years. Every employee is bound to grow and turn 50 plus. The respondent as per its wisdom has made classification which seems to be just and fair. The respondent has formed an opinion that employees with higher age should be given preference as they certainly have better experience but more family responsibilities and health issues. This classification is not going to affect young employees because at later stage of their life, they are also going to be benefited, hence it is not violative of Article 14. The PHHC refused to interfere with the said transfer policy and dismissed the petitions.

**THE ALLAHABAD HIGH COURT
REITERATES PRIMACY OF STATUTE
OVER ANY EXECUTIVE INSTRUCTION.**

The Petitioner was appointed as a Lecturer/ Assistant Professor in St. John's College, Agra, superannuated on 30.06.2024 from the post of Professor in Khwaja Moinudding Chishti Language University, Lucknow. She was denied gratuity benefits as per the government orders which provided that such gratuity would be payable only to those teachers who opted to retire at the age of 60 years and upon whom provisions of Payment of Gratuity Act, 1972 (“Act”) were made applicable but was denied to those who continued in service up to the age of 62 years, ostensibly for the reason that in such cases, 2 years additional service benefits were opted for. The Allahabad High Court observed that Sec. 14 of the Act clearly states that the provisions of Act would continue to be in force irrespective of anything contained which is inconsistent with any other provisions by virtue of this provision the government order would become redundant since it is a settled law that provisions of statute would have primacy over any executive instruction such as a government order. The government order was valid prior to the inclusion of teachers as employees under the provisions of the Act, however when the amendment to the Act was effectuated in 2009, teachers were covered within the ambit of employees under the Act making the government order redundant. The court in this

Writ – A No. 292/2025, ordered disbursement of gratuity along with interest.

**RAJASTHAN HIGH COURT ORDERS
PAYMENT OF SALARY TO AN EMPLOYEE
ACQUITTED FROM CRIMINAL CASE**

The petitioner working as Junior Engineer was placed under suspension, due to a criminal case filed against him. However, no departmental inquiry was initiated. He was later acquitted and was reinstated back to service. His salary was withheld for the period of suspension. He submitted several representations requesting regularization of the suspension period and payment of arrears. In response to which, an order was issued, regularizing the suspension period but denying payment of arrears, except for the subsistence allowance, citing the reason that his acquittal was based on the benefit of a doubt. The Petitioner aggrieved by the same approached the High Court of Rajasthan vide WP (C) 103941/2011 seeking to quash the order passed by the respondents. It was observed that once a competent Court has threadbare gone into the evidence adduced by both the sides and found that there was no sufficient material on record which was incriminating enough so as to fasten any criminal culpability on the accused, merely because the accused has been acquitted on the ground that benefit of doubt would not mean that there was otherwise any evidence available. The reliance on "benefit of the doubt" as a reason to deny arrears is unfair, unjust and arbitrary. An acquittal per se signifies the absence of sufficient evidence to establish culpability. Denial of arrears is in direct contradiction with the principle of restoring the petitioner to his rightful position as though the suspension never occurred, save for adjustments like subsistence allowance already paid. A mere "benefit of doubt" acquittal cannot be used as a ruse to deprive an employee of legitimate financial entitlements. The impugned order is set aside and the respondents are directed to pay the dues along with applicable rate of interest as per the service rules.

**THE HIGH COURT OF PUNJAB &
HARYANA ORDERS DISBURSAL OF
SALARY AND BENEFITS TO AN EMPLOYEE
DISABLED WHILE SHE WAS ENROUTE TO
THE PLACE OF EMPLOYMENT**

The Petitioner joined as ETT Teacher on 11.09.2016 and was posted at Govt. Primary School Sodhi Nagar, Ferozepur, but unfortunately on 08.03.2017, she met with an accident while riding on an Activa on the way to school, having been hit by a

car, on account of which FIR was registered. A certificate was issued by the Civil Hospital, Ferozepur, which confirms the 90% permanent disability. The District Education Officer (SS), Ferozepur, addressed a letter to the Director Education Department, Punjab, recommending the case of the petitioner for the release of salary on sympathetic grounds, however her salary was still withheld. The present petition was preferred to direct the respondents to pay salary and all other admissible benefits to the petitioner from the date she met with an accident resulting in permanent disability. The Court while relying on the case of *Amit Kumar through his father Ram Kumar v State of Haryana & Ors. CWP 21761/2022*, whereby the employee had received a severe head injury which resulted in coma and same was allowed, held that the employer has to be sensitive about the miseries of his employee, who unfortunately met with an accident. Keeping in view with the Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation), Act, 1995, any employee, who acquires disability during his service, should be shifted to another post with the same pay scale and the same service benefits. In case, it is not possible to shift the employee to any other post, then any supernumerary post should be created so that the employee concerned is able to get salary which the employee was getting prior to becoming disabled considering this the present writ WP (C) - 2543/2025 (O & M) is disposed directing disbursement of salary and benefits.

THE GOVERNMENT OF TELANGANA REVISES REGISTRATION FEE FOR ESTABLISHMENTS UNDER THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) RULES, 1999

The government of Telangana vide Notification G.O.Ms.No.2 dated February 24, 2025, has increased fee for registration of establishments under Rule 27 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 1999 from INR 1000 & INR 5,000 to INR 2000 and INR 10,000.

THE GOVERNMENT OF NCT OF DELHI NOTIFIES APPELLATE AUTHORITY UNDER THE RIGHT OF PERSONS WITH DISABILITIES ACT, 2016

The government of NCT of Delhi vide Notification F. No.

24/33/Disb/DGHS/HQ/2023/165 dated February 3, 2025 notifies the Director General Health Services, Govt. of NCT of Delhi as the Appellate Authority against the decision of Certifying Authority under the Right of Persons with Disabilities Act, 2016 for the purpose of issuance of disability certificate in NCT of Delhi.

THE GOVERNMENT OF CHHATTISGARH NOTIFIES THE EFFECTIVE DATE OF THE CHHATTISGARH SHOPS AND ESTABLISHMENTS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 2017

In exercise of the powers conferred under section 1(4) of the Chhattisgarh Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017 (“Act”) the State Government decides to give effect to the Act from February 13, 2025 vide Notification No. F-10-12/2017/16/434. The Act applies to the shops and establishments employing 10 or more workers. The shops and establishments registered under Employees’ State Insurance Act, 1948 or Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 shall be deemed to be registered under the Act and such shops and establishments have to obtain a labour identification number. Apart from the registration, the Act provides for other compliances such as maintenance of registers and records, filing annual return, etc.

THE GOVERNMENT OF MEGHALAYA HAD ISSUED A SERIES OF NOTIFICATIONS TO FACILITATE EASE OF DOING BUSINESS

In order to simplify the business regulations and ease of compliance of labour laws and bring transparency and accountability in the information dissemination and appropriate implementation, the Department of Labour, Skill Development & Employment mandates vide Notification No. LE &SD.39/14/Pt/487 dated February 5, 2025 that all the applications are submitted online with no requirement for submission of a hard copy through the Invest Meghalaya Portal and no applications would be accepted offline for the following services:

- License/ Renewal for contractors under provision of The Contract Labour (Regulation and Abolition) Act, 1970
- Registration of principal employer's establishment under provision of The Contract Labour (Regulation and Abolition) Act, 1970

- Registration of establishments employing building and construction workers under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.
- Registration of establishments under the Inter State Migrant Workmen (RE&CS) Act, 1979
- License/ Renewal for contractors under Inter State Migrant Workmen (RE&CS) Act, 1979
- Certificate of registration/renewal for a Motor Transport Undertaking under the Motor Transport Workers Act, 1961
- Registration/Renewal of Shops & Establishments under the Meghalaya Shops & Establishments Act, 2003
- Registration/Renewal of Migrant workers under The Meghalaya Identification, Registration (Safety & Security) of Migrant Workers Act, 2020.

The portal shall also have online dashboard for various services, facility for submission of online applications, payment, tracking and monitoring, downloading the final signed certificate/licenses/document & third-party verification for the purpose of the authenticity of the approval or registration among other facilities.

A single online window system has also been implemented for issuing all registrations/licences pertaining to services under various labour laws vide Notification No.LE&SD.39/14/Pt/488 dated February 5, 2025.

THE GOVERNMENT OF KARNATAKA NOTIFIES KARNATAKA FACTORIES (SAFETY AUDIT) RULES, 2024

The government of Karnataka vide Notification No. LD 75 KBN 2024 dated February 1, 2025 has notified Karnataka Factories (Safety Audit) Rules, 2024. The rules include duties of occupier, standards of safety audit to be followed, qualification for the safety auditor, certification, safety audit report, exemptions, re-audit, submission of the safety audit report, among others.

THE EMPLOYEES' PROVIDENT FUND ORGANIZATION EXTENDS THE TIMELINE TO ACTIVATE UAN AND SEED BANK ACCOUNT WITH AADHAR FOR AVAILING THE BENEFITS UNDER ELI SCHEME.

The Employees' Provident Fund Organization had extended the time for UAN activation and seeding bank account with AADHAR for availing benefits under ELI scheme up to March 15, 2025 vide Circular No. ELI/UANActivation/2025 dated February 21, 2025.

THE GOVERNMENT OF MAHARASHTRA REVISES VARIABLE DEARNESS ALLOWANCES AND MINIMUM WAGES FOR THE MUMBAI AND THANE SECURITY GUARD BOARD

The revised special allowance/dearness allowance is INR 3,614 per month for all security personnel. The said revision shall remain operation from January 1, 2025 to June 30, 2025. The change has been brought vide Reference No. suram/vibh/aldo/2025-1216 dated February 24, 2025.



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