

Criminal Conviction not necessary for Forfeiture of Gratuity due to acts involving Moral Turpitude: Supreme Court

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Introduction

A division bench of the Supreme Court of India in *Western Coal Fields v Manohar Govinda Fulzele*, 2025 SCC Online SC 345 held that under the Payment of Gratuity Act, 1972 (Act), proven misconduct involving moral turpitude does not have to be backed by a criminal conviction of the employee in question for an employer to forfeit gratuity upon termination of services for such misconduct. The judgment was rendered for a group of 3 appeals involving similar facts where the employer forfeited gratuity upon the termination of the employee's services for misconduct. In this update, we discuss the ruling in detail to understand the rationale of the court and its ramifications.

Understanding the Law

Gratuity is one of the most important statutory employment payments in India, payable as a one-time defined benefit upon cessation of an employee's services who has completed 5 years of continuous service. Given that this payment is a reward for the long-term service already completed by the employee, there are very limited instances allowed by the law where such payment can be forfeited in whole or in part by the employer. Section 4(6)(b)(ii) of the Act provides that gratuity may be wholly or partly forfeited by the employer under certain conditions, including in case of termination of employment on account of an act of the employee *which constitutes an offence involving moral turpitude* in the course of his employment. The term 'moral turpitude' is not defined under the law, but based on judicial precedents, it refers to instances where an individual indulges in acts which are against morality, integrity, and ethics. Courts have identified offences involving moral turpitude to include financial misappropriation, criminal breach of trust, theft, sexual misconduct, etc.

Factual Background

In the present case, an employee was proceeded against in a departmental enquiry for producing a fraudulent date of birth certificate to obtain employment with his employer, a public sector undertaking (PSU). This act was suppressed for the 22 years of his tenure at the appellant's organization, leading to forfeiture of his gratuity under Section 4(6) of the Act.

The employee relied on the landmark judgment of the apex court in the case of *Union Bank of India and Others v CG Ajay Babu* (2018) 9 SCC 529 (Ajay Babu), to oppose such forfeiture, noting that in this ruling, the Supreme Court of India observed the forfeiture of gratuity of an employee due to the offence involving moral turpitude is valid only if such offence is duly established in a court of law, an aspect that is in the realm of criminal law.

Notably, the present case also saw connected appeals by the Maharashtra State Road Transport Corporation (MSRTC) where their delinquent employees i.e., conductors in the stage carriages operated by the MSRTC, were found to have indulged in misappropriation of the fares collected from passengers, resulting in forfeiture of their gratuity.

Issue

The issue raised before the Supreme Court of India was whether an employer could forfeit the gratuity of an employee upon termination of his service on account of moral turpitude in the absence of a criminal conviction.

Contentions

- Stance put forth by the PSUs: The learned Solicitor General of India on behalf of the PSU argued that the employee would not have obtained the appointment if his actual date of birth had been disclosed at the time of appointment. Further, relying on case law, the Solicitor General contended that any suppression of material information by an employee during the selection process would constitute an offence involving moral turpitude. In the present case, it had been proved at the departmental level that the employee had in fact suppressed his actual date of birth, and therefore, mere failure of the employer to initiate criminal proceedings against the fraud committed by the employee does not militate against the forfeiture.
- Stance put forth by the employees: It was contrarily argued by the employee that he had been employed in the organization for a sizable period of 22 years, a journey which was otherwise unblemished. Further, the employee's service benefit such as gratuity are the fruits of his service towards the company and is also a statutory right as per the Act, which should not be denied to him on termination of his service in the absence of a criminal conviction.

Key Takeaways from the Ruling

The following are a few important observations made by the Supreme Court of India that laid the foundation for its decision:

- Overarching interpretation of Section 4(6) of the Act: The court analysed the provision permitting forfeiture of gratuity under the Act and determined that such provision does not mandate that misconduct proven in a departmental enquiry should not only constitute an offence involving moral turpitude, but also be established by a court of law. The court noted that the words "*duly established in a court of law*" as observed in Ajay Babu cannot be additionally supplied to the provision. The court further noted that the observations on Section 4(6)(b)(ii) in Ajay Babu were obiter, and hence, did not find it necessary to refer the issue to a larger bench.
- Distinction in the standard of proof required: While analysing the definition of 'offence', the Supreme Court of India in Ajay Babu had relied upon the definition of 'offence' in the General Clauses Act, 1897, which refers to any act which is made punishable by any law for the time being in force. The bench in the present case noted that the definition of 'offence' does not call for a conviction, which could only be done on the basis of a criminal proceeding. The court held that while the standard of proof in criminal proceedings is establishing a case *beyond reasonable doubt*, the standard of proof required in disciplinary proceedings is governed by a *preponderance of probabilities*.

Comments

Court interventions in disciplinary enquiries have been widely discussed, with several recent rulings highlighting that the judicial intervention should be limited to an examination of whether the correct disciplinary procedure was followed and whether an employee was granted a fair hearing in the enquiry process. The present case provides significant relief to employers who do not have to wait for criminal conviction of an employee before forfeiting gratuity once the internal disciplinary process is concluded, but it also re-emphasises on the manner in which evidence must be appreciated at the departmental level whilst conducting such enquiries. One of the important consequences of the ruling is that in cases where an offence involving moral turpitude takes the shape of financial misappropriation, the prevailing position that the extent of financial misappropriation must be determined by a court of law to ensure that forfeiture of gratuity is a measured exercise may also lose significance.

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