

Forfeiture of gratuity does not require criminal conviction as a prerequisite

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Introduction

In the recent case of *Western Coal Fields Ltd. v. Manohar Govinda Fulzele*, 2025 INSC 233, the Supreme Court (“SC”) held that an employee’s gratuity can be forfeited in case of proven misconduct for an offence involving moral turpitude, even if the employee has not been convicted in a criminal proceeding.

This update discusses the judgment and analyses its potential impact.

Background

Western Coal Fields Ltd. (“WCFL”), a public sector undertaking, terminated an employee for securing employment by submitting a forged birth certificate and forfeited his entire gratuity. The birth certificate represented the date of birth of the concerned employee as 1960, instead of his actual date of birth, which was 1953.

In the case of Maharashtra State Road Transport Corporation (“MSRTC”), the terminated employees were conductors and were found guilty of misappropriation of fares collected from passengers.

WCFL and MSRTC filed appeals to the SC against the lower court judgments finding the forfeiture of gratuity as coming afoul of Section 4(6) of the Payment of Gratuity Act, 1972 (the “Gratuity Act”). For context, Section 4(6) of the Gratuity Act provides the circumstances under which gratuity can be forfeited, which includes the circumstance where the services of an employee have been terminated for any act constituting an offence involving moral turpitude and committed in the course of employment.

The SC ruling

The SC ruled that gratuity can be forfeited under the Gratuity Act in case of proven misconduct for an offence constituting moral turpitude, without the requirement of backing the misconduct with a criminal proceeding and/ or criminal conviction.

The SC analysed the decision of *Union Bank of India and others v. C.G. Ajay Babu*, 2018 INSC 708 (the “Ajay Babu Judgment”), which dealt with the forfeiture of gratuity of an employee terminated due to misconduct involving the failure to protect the interests of the employer and failure to discharge his duties as an employee. The SC overruled the Ajay Babu Judgment and held that Section 4(6) of the Gratuity Act does not require an employee’s misconduct proved in a departmental enquiry as constituting an offence involving moral turpitude to also be established in a court of law. Per contra, the Gratuity Act permits the forfeiture of gratuity if an employee is terminated for misconduct for an offence involving

moral turpitude. Therefore, the only requirement that needs to be satisfied is that the misconduct should constitute an offence involving moral turpitude.

Additionally, the SC specified that the principles of natural justice should be followed in any departmental enquiry to assess an employee's misconduct. An employer must give the employee adequate notice, and the employee must be allowed to represent his/ her case on: (i) the question of the nature of the misconduct; (ii) whether the misconduct constitutes an offence involving moral turpitude; and (iii) the extent to which the forfeiture of the gratuity can be made.

In WCFL's case, the SC held that as the appointment of the employee was based on forged documents, the appointment itself was illegal, and therefore, the forfeiture of the entire gratuity of the employee of WCFL was valid. In MSRTC's case, the SC observed that the misappropriation committed by the employees was of meagre amounts. Therefore, the SC took a more sympathetic approach and limited the forfeiture to 25% of the total gratuity payable to the employees ordering the release of the balance gratuity amount to them.

Our comments

Basis the foregoing, in our view, it can be said that the following are the key requirements that need to be fulfilled for forfeiture of gratuity under the Gratuity Act.

- (i) Departmental enquiry: The misconduct of the employee must be proved by holding a departmental enquiry in accordance with the principles of natural justice.
- (ii) Offence involving moral turpitude: The misconduct must be of a nature such that it can be categorized as an offence involving moral turpitude. Moral turpitude has not been defined under Indian law, but an interpretation of judicial precedents makes it clear that moral turpitude is any action contrary to the community standards of justice, honesty, and good morals.
- (iii) Course of employment: The offence involving moral turpitude must have been committed in the course of employment of the employee.

The SC's judgment has made it simpler for an employee to forfeit gratuity by an employer by removing the requirement for the employer to obtain a criminal conviction in a court and allowing forfeiture on the basis of findings in a departmental enquiry. In our view, the ruling is a welcome step, as it will help deter employees from going to court challenging the findings of the employer. However, employers must exercise due diligence in conducting departmental inquiries and ensure that their internal procedures are sound and compliant with the principles of natural justice.