IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JANUARY, 2025

PRESENT

THE HON'BLE MR JUSTICE V KAMESWAR RAO

AND

THE HON'BLE MR JUSTICE S RACHAIAH

WRIT APPEAL NO. 295 OF 2024 (S-R)

BETWEEN:

SRI C V REVANKAR
S/O V B REVANKAR, AGED 69 YEARS
NO.11, 3RD MAIN STREET
LAKE VIEW, DEFENCE COLONY
SHETTIHALLY, JALAHALLI WEST
BANGALORE – 560 015.

...APPELLANT

(BY SRI. AMARESH N, ADVOCATE)

AND:

STATE BANK OF INDIA
LOCAL HEAD OFFICE
NO.65, ST.MARKS ROAD
BANGALORE – 560 001

...RESPONDENT

Digitally signed by NARAYANA UMA
Location: HIGH COURT OF KARNATAKA

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT, 1961 PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 07.11.2023 PASSED IN W.P.No-8576/2015 (S-R) BY THE LEARNED SINGLE JUDGE IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE V KAMESWAR RAO
and
HON'BLE MR JUSTICE S RACHAIAH

ORAL JUDGMENT
(PER: HON'BLE MR JUSTICE V KAMESWAR RAO)

The challenge in this appeal is to an order dated 07.11.2023 passed by the learned Single Judge in Writ Petition No.8576/2015 whereby the learned Single Judge has dismissed the petition filed by the appellant herein.

2. The petitioner / appellant had filed the writ petition seeking the entire Gratuity amount and also full pension, from the respondent who had forfeited the complete Gratuity amount and granted the pension at the rate of 2/3rd of the full pension. The conceded position is that a charge sheet was issued to the appellant under the Conduct Rules. The charges have been proved by the Enquiry Officer which included that the misdemeanor has led to loss to the Bank. It is also a conceded position that the appellant herein had not challenged the findings of the Enquiry Officer in any proceedings. Based on the conclusion drawn by the Enquiry Officer in the enquiry report, the Disciplinary Authority has imposed a penalty of compulsory retirement on the appellant. It is in this

background, the Gratuity was forfeited and the pension of the appellant was fixed at 2/3rd of the full pension.

3. Learned Single Judge while rejecting the aforesaid two grounds of challenge in the writ petition has, in paragraph No.6 onwards, stated as under:-

> *"6. As could be seen from Section 4(6)(a) of the Act, an employee, whose services had been terminated for any act of wilful misconduct or negligence causing any damage or loss to the employer, would not be entitled for the gratuity and the gratuity would be forfeited to the extent of damage or loss so caused to the employer.*
>
> *7. The impugned order indicates that the Enquiry Officer had held that the charges against the petitioner had been proved and the Bank has suffered a loss to the extent of Rs.1,91,35,000/-. In the light of the fact that the services of the petitioner were compulsorily retired and the further fact that the Bank has suffered loss to the tune of Rs.1,91,35,000/-, the Bank was entitled under Section 4(6)(a) of the Act to forfeit the entire gratuity amount. The impugned order insofar as relating to*

forfeiture of gratuity cannot, therefore, be found fault with.

8. As regards the claim for payment of full pension is concerned, Regulation 33 of the Regulations reads as follows:

> *"33. <u>Compulsory Retirement Pension</u> –*
>
> *(1) An employee compulsorily retired from service as a penalty on or after 1st day of November, 1993 in terms of Service Regulations or Settlement by the authority higher than the authority competent to impose such penalty may be granted pension at a rate not less than two-thirds and not more than full pension admissible to him on the date of his compulsory retirement if otherwise he was entitled to such pension on superannuation on that date.*
>
> *(2) Whenever the Competent Authority passes an order (Whether original, appellate or in exercise of power of review) awarding pension at a rate less than the full pension admissible under these regulations, the Board of Directors or its Executive Committee shall be consulted before such order is passed.*
>
> *(3) A Pension granted or awarded under sub-regulation.*

(1) or, as the case may be, under sub-regulation

(2) Shall not be less than the amount of rupees three hundred and seventy five per mensem."

9. As could be seen from Regulation 33 of the Regulations, if an employee had been compulsorily retired from service as a penalty in terms of the service Regulations, such employee could be granted pension only to an extent of 2/3rd of the entire pension and not the full pension admissible to him.

10. In the instant case, since the petitioner has admittedly been compulsorily retired as a penalty, the Bank would be well within its right to refuse payment of full pension and restrict his pensionary rights only to an extent of 2/3rd. The argument of the learned counsel for the petitioner that the Disciplinary Authority, while imposing the punishment of compulsory retirement, had not ordered for forfeiture or for reduction of pension and therefore, these subsequent orders cannot be passed is untenable. The power to forfeit gratuity amount would arise only after the services of an employee is terminated. Similarly, the

> *grant of only 2/3rd pension would also be a decision that is taken after the punishment of compulsory retirement was passed. These are, in fact, consequences of the punishment imposed against an employee and these need not be passed by the Disciplinary Authority while imposing the punishment for the proved misconduct.*
>
> *11. In the light of the above, I find no reason to entertain the writ petition and the same is accordingly dismissed."*

4. The submission of Mr. Amaresh N., learned counsel for appellant is that, when the order of compulsory retirement was passed, the Disciplinary Authority has not stated that the Gratuity shall stand forfeited, as such, the respondent – Bank could not have forfeited the same. We do not agree with the said submission of Mr. Amaresh.N for the simple reason that the forfeiture of the Gratuity is because of the operation of Section 4(6)(a) of the Payment of Gratuity Act 1972. In other words, it is the provision itself which contemplates that in the eventuality the loss to the employer is proved, the same can entail forfeiture of Gratuity. Even the plea of Mr. Amaresh.N with regard to the payment of 2/3rd of full pension is

concerned, learned Single Judge has relied upon Regulation 33 of the State Bank of Mysore (Employees') Pension Regulations, 1995 governing Compulsory Retirement Pension and stated that in view of the said Regulation, the respondent - Bank herein is within its right to grant pension only to the extent of 2/3rd of the entire pension, not full pension as admissible to him otherwise. We agree with the said conclusion. More so the appellant has neither challenged the findings of the Enquiry Officer nor the punishment of compulsory retirement. We do not see any merit in the appeal. The same is *dismissed*.

Pending I.A. does not survive for consideration and it stands disposed of.

Sd/-
(V KAMESWAR RAO)
JUDGE

Sd/-
(S RACHAIAH)
JUDGE

BSS
List No.: 1 Sl No.: 37