

(2013) 10 DEL CK 0200

In the Delhi High Court

Case No : Writ Petition (C) No. 1316 of 2010

S.P.S. Rana

APPELLANT

Vs

National Seeds Corporation

RESPONDENT

Date of Decision : 22-10-2013

Acts Referred:

Payment of Gratuity Act, 1972 — Section 4, 4(6)

Citation : (2014) 140 FLR 592 : (2013) LLR 1237

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Sudhir Kulshrestha, for the Respondent

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.—No one appeared for the petitioner yesterday. No one appears for the petitioner even today although it is 2.45 P.M. Record shows that after filing of the counter affidavit case has not been pursued by the petitioner and no rejoinder affidavit has been filed. By this writ petition, petitioner prayed for release of the terminal benefits including gratuity which were forfeited by the respondent corporation/employer.

2. Counsel appearing for the respondent states that all amounts due to the petitioner have been paid except the gratuity which has been forfeited on account of loss caused to the employer. It is argued that this forfeiture can take place in terms of the provision of Section 4(6) of Payment of Gratuity Act, 1972 (hereinafter referred to as "the Act"). Section 4(6) of the Act reads as under:-

Section 4. Payment of Gratuity.-(6) Notwithstanding anything contained in sub-section(1),-

(a) the gratuity of an employee, whose services have been terminated for any act, willful 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 [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.

3. Counsel for the respondent has drawn my attention to the order passed by the disciplinary authority which is filed at page 134 as Annexure P-10. As per para 8 of the order of the disciplinary authority dated 29.5.2008 petitioner has been held guilty of misappropriation of the sum of Rs. 1,24,571.50/- and because of which to this extent the gratuity of the petitioner has been forfeited.

4. A reference to Section 4(6) of the Act shows that where the services of an employee have been terminated for causing loss to the employer, then, gratuity can be forfeited. Since in the present case, petitioner has caused loss to his employer and he has been dismissed from services, the provision of Section 4(6) of the Act will come into play to entitle the respondent to forfeit the gratuity. In view of the above, there is no merit in the petition whereby the petitioner claims release of the gratuity. Petition is therefore dismissed, leaving the parties to bear their own costs.