

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2559 OF 2023

The Sub Area Manager, WCL Ballarpur __ Vs. __ Appellate Authority under the
Payment of Gratuity Act and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. PV.Ghare, Advocate for petitioner
Mrs. M.A.Barabde, AGP for respondent No.1 & 2
Ms. Ashwini Athaley, Advocate for respondent no.3

CORAM : AVINASH G. GHAROTE, J.
DATE : 20/04/2023

1] It is contended that the impugned orders have been passed on an incorrect legal premise that for the purpose of forfeiture of gratuity under Section 4(6)(b)(ii) of the Payment of Gratuity Act, there has to be conviction of the respondent for misconduct. The language of the said provision merely contemplates termination of the services on account of an act which constitute an offence involving moral turpitude. In the enquiry instituted, it has been found that the respondent was impersonating someone else and therefore, the termination was ordered on account of moral turpitude. It is therefore contended that the impugned orders are based upon an incorrect premises and relying upon **Chairman-Cum-Managing Director vrs. Rabindranath Choubey, (2020) 18 SCC**

71, issue notice for final disposal returnable on 7.6.2023.

2] Till the returnable date, the effect and operation of the order passed by the controlling authority shall stand stayed.

3] [~~Mrs. M.A.Barabde~~] Ms.Athalye, learned [~~AGP~~] counsel waives service of notice for respondent nos.1 & 2. [~~and Ms.Athalye, learned counsel waives service of notice for respondent no.3.~~]

4] Issue notice to the respondent No.3, returnable after Summer Vacation.

Corrected as per order passed
in CAW No. 1359/2023, dated
03/05/2023.

sd/-
PA

JUDGE

Rvjalit