2026 INSC 779

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2026
(Arising out of SLP (Civil) No. 16945 of 2025)

PRABHAT KUMAR SINGH **APPELLANT(S)**

VERSUS

ACCU PACK ENGINEERING PVT. LTD. **RESPONDENT(S)**

WITH

CIVIL APPEAL NO. OF 2026
(Arising out of SLP (Civil) No. 18594 of 2025)

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CIVIL APPEAL NO. OF 2026
(Arising out of SLP (Civil) No. 17401 of 2025)

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CIVIL APPEAL NO. OF 2026
(Arising out of SLP (Civil) No. 18570 of 2025)

O R D E R

1. Leave granted.

2. These appeals would call in question the order passed by the High Court dismissing the writ petition(s) filed by the present appellant(s), which in turn had called in question the order passed by the Appellate Authority under the Payment of Gratuity Act, 1972 (for short 'the Act') dated 24.03.2023, by setting aside the order passed by the Controlling Authority under the Act dated 18.04.2022 allowing the gratuity claims of the appellant(s) in the

following manner:

Name of the Petitioner	Amount of gratuity
Prabhat Kumar Singh	3,79,817/-
Anil Sahadeo Kadam	2,99,538/-
Nilesh Afre	3,74,867/-
Shrikant B. Chinchkar	2,06,630/-

3. Admittedly, the appellant(s) were employed in the respondent company, in its Production Planning and Control Department, since the year 2007 onwards. All the appellant(s) resigned from their posts by tendering letters of resignation on different dates. The resignation submitted by Prabhat Kumar Singh only was accepted on 03.10.2018 to be made effective from 03.11.2018, when he was to be relieved. In respect of other appellant(s), their resignations were never accepted.

4. While it being so, the appellant(s) were issued a letter of termination on 14.11.2018, which was not preceded by any inquiry. Prior to this, on 05.11.2018, the appellant(s) were issued a show-cause notice as to why, on account of their act of misconduct in causing damage and loss to the company, the amount of gratuity payable to them may not be forfeited to the extent of the aforesaid amount of loss, which was mentioned as Rs.50 Lakhs in the said notice.

5. It is the case of the respondent company that the appellant(s) never submitted any reply to this notice, which enabled them to withhold the gratuity payable to the

appellant(s), while settling their claims.

6. The appellant(s) thereafter moved an application under Section 8 of the Act for payment of gratuity, which was allowed by the Controlling Authority on 18.04.2022, holding that the requirement under Section 4(6)(b)(ii) for forfeiting the amount of gratuity was not fully complied with. It was found that the FIR filed by the company against the appellant(s) does not give any authority to the employer to withhold their amount of gratuity because, as per Section 4(6)(b)(ii), the misconduct has to be established as an offense involving moral turpitude for which the employee has to be convicted by a court of competent jurisdiction.

7. It was also observed that in the absence of any specific allegations or charge for causing pecuniary loss to the respondent company, gratuity cannot be forfeited. The above order of the Controlling Authority was challenged before the Appellate Authority, which was allowed by order dated 24.03.2023, and the High Court has affirmed this order.

8. It is argued that there is absolutely not an iota of evidence as to the extent of loss the respondent company has suffered. Therefore, the prerequisite of withholding of gratuity to the extent of loss suffered by the company has not been satisfied under Section 4(6)(b)(ii) of the Act. It is submitted that admittedly no inquiry was conducted before terminating the appellant(s)' services. Therefore,

there was no occasion either for the company to prove the extent of loss, nor was there any opportunity for the appellant(s) to disprove the claim of the company in the absence of an inquiry.

9. Per contra, learned Senior Counsel appearing for the respondent company, would take us through the statement of the appellant(s) recorded during the proceedings before the Controlling Authority. According to him the appellant(s) having accepted the misconduct in their cross-examination, the company was entitled to forfeit the gratuity. It is also submitted that as per their own admission, they used to procure goods at Rs.3,600 from a supplier company and sell it to the respondent company at Rs.6,900. Therefore, the difference between these two prices is the extent of loss suffered by the respondent company, and no further proof was required.

10. Having heard learned counsel for the parties and on examination of the material on record, we find that the appellant(s)' termination, having not been preceded with any inquiry, the appellant(s) were not given any opportunity to contest the company's claim about the loss suffered by it.

11. Moreover, the FIR lodged by the respondent company against the appellant(s) was investigated and closed by the jurisdictional Investigating Officer, in its report dated 05.02.2020, with a finding which is reproduced hereunder:

> “During the investigation of the

said crime, it was found that Accused Nos. 1 to 4, with the implied or verbal permission of the complainant, established a company named “Make Craft Industrial Company" in the name of the complainant's wife. The said company obtained work orders from the complainant's company and, according to the orders, got the goods manufactured from another company and fulfilled the complainant's company’s orders. In return, they received an amount of Rs.11,90,244 from the complainant’s company, while an outstanding amount of Rs.3,01,400 is yet to be received by the accused. <u>Therefore, the investigation revealed that there was no financial loss or misappropriation to the complainant.</u> However, it was found that the accused established a separate company in the name of the complainant's wife without his direct involvement. This matter is of a civil nature, and since the crime is of a civil nature, Asst. Sub-Inspector V.A. Dabholkar has submitted a request report for summary approval.

Sub-Divisional Police Officer, Vashi Division, has submitted a recommendation for summary approval of the documents related to the case registered as Crime No. I-290/2018 at Rabale MIDC Police Station under Sections 420, 406, and 34 of the IPC, considering it as a civil matter.

After a thorough examination of the investigation documents, permission is granted to present the 'Civil Summary' of Crime No. 290/2018 registered at Rabale MIDC Police Station under Sections 420, 406, and 34 of the IPC before the Hon'ble Court.

The original reference

documents are attached herewith."

12. It is also significant to notice that in its show-cause notice dated 05.11.2018 issued to the appellant(s), the respondent company quantified the net loss suffered by the company to the extent of not less than Rs.50 Lakhs. However, there was no accompanying document in the form of calculation or audit report which would substantiate the claim of the company about the loss suffered. In any case, such computation or assessment of loss has to be presented before the Controlling Authority, which too was not done by the respondent company.

13. It is for the company to have proved the financial loss suffered by it due to the misconduct of the appellant(s), and they cannot take benefit of statements made by the appellant(s) in their cross-examination in the proceedings before the Controlling Authority. The financial loss suffered by the company has to be proved by producing independent evidence before the Controlling Authority. Even before this Court, no such document has been submitted with the counter-affidavit of the respondent.

14. In the matter of *Permali Wallance Ltd. v. State of Madhya Pradesh*[1], the High Court of Madhya Pradesh has taken a view that the right of the employer to forfeit the amount of earned gratuity of an employee whose services were terminated for any act, willful omission, or negligence causing any damage to the employer is limited to the extent

1. (1996) 2 LLJ 515,

of damage and the proof of such damage. We are in agreement with the view taken by the High Court of Madhya Pradesh, as we have independently found that the respondent company has failed to submit any proof of extent of damage suffered by it by submitting documents in support of such claim by the company.

15. To the contrary, in the FIR filed by the company, a closure report has been submitted finding that there was no financial loss or misappropriation committed against the respondent company.

16. In view of the above, we are inclined to allow the appeal(s), set aside the impugned order passed by the High Court and the Appellate Authority, and restore the order passed by the Controlling Authority on 18.04.2022.

17. The order passed by the Controlling Authority shall be complied with within a period of two months from today.

18. The appeal(s) stand allowed in the above terms.

19. Pending application(s), if any, shall stand disposed of.

……………………………………………………………J.
[PRASHANT KUMAR MISHRA]

……………………………………………………………J.
[SHREE CHANDRASHEKHAR]

NEW DELHI;
July 28, 2026

ITEM NO.21 COURT NO.13 SECTION IX-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 16945/2025

[Arising out of impugned final judgment and order dated 02-04-2025 in CWP No. 8487/2023 passed by the High Court of Judicature at Bombay]

PRABHAT KUMAR SINGH Petitioner(s)

VERSUS

ACCU PACK ENGINEERING PVT. LTD. Respondent(s)

IA No. 148094/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 148093/2025 - EXEMPTION FROM FILING O.T.

WITH

SLP(C) No. 18594/2025 (IX-A)
IA No. 162820/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 162821/2025 - EXEMPTION FROM FILING O.T.

SLP(C) No. 17401/2025 (IX-A)
IA No. 152602/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 152603/2025 - EXEMPTION FROM FILING O.T.

SLP(C) No. 18570/2025 (IX-A)
IA No. 162665/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 162666/2025 - EXEMPTION FROM FILING O.T.

Date : 28-07-2026 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA
HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

For Petitioner(s) Mr. Dhurva Shankar Mishra, AOR
Mr. Sudip Mallick, Adv.
Mr. Sudhir Singh, Adv.
Mr. Vikas Kumar Singh, Adv.
Mr. Shah Mohd, Adv.

Ms. Geet Shakya, Adv.
Ms. Archana Kumari, Adv.

For Respondent(s) Mr. Vinay Navare, Sr. Adv.
Ms. Manshi Jain, Adv.
Mr. Yashodhan Chandurkar, Adv.
Mr. Satyajeet Kumar, AOR

UPON hearing the counsel the Court made the following

O R D E R

1. Leave granted.

2. The appeal(s) are allowed in terms of the Reportable Signed Order placed on the file.

3. Pending application(s), if any, shall stand disposed of.

(MINI)
COURT MASTER (SH)

(AKSHAY KUMAR BHORIA)
COURT MASTER (NSH)