



*Bhoomika GS*  
*Associate*

## GUJARAT HIGH COURT ON FORFEITURE OF GRATUITY

### A. Introduction

In the recent case of *Jaykant R. Gohil* case,<sup>1</sup> Union Bank of India (“**UBI**”) accused respondent Jaykant R. Gohil (“**Gohil**”) of causing monetary loss to UBI and forfeited Gohil’s gratuity. High Court of Gujarat (**HC**), however, ordered the UBI to pay Gohil all his retiral dues.

### B. Brief Facts

1. Gohil was working as a branch manager and had joined UBI in 1984. During his employment, UBI had issued a charge-sheet levelling certain allegations regarding disbursement of term loans in 2011. A departmental inquiry was conducted, and a penalty of dismissal was issued against the Employee in 2012.
2. Gohil challenged the order in an appeal. The Appellate Authority (**AA**) ordered reducing the punishment to compulsory retirement.
3. Since the penalty was modified in January 2014, Gohil preferred application before the Controlling Authority (**CA**) within the statutory period of 30 days under Section 7 of the Payment of Gratuity Act, 1972 (**PGA**). UBI thereafter issued show-cause notice on Gohil under Section 4(6)(a) of the PGA and passed orders in 2015 withholding gratuity on grounds of misconduct.
4. On challenge of UBI’s decision before the CA, it ordered UBI to pay gratuity. This was also upheld by the AA. UBI moved the HC.

### C. Order and Reasoning

The HC:

1. Held:<sup>2</sup>

*“The (PGA) provides that under Section 7 of the Act a person who is eligible for payment of gratuity is entitled to payment of such amount within 30 days from the date it becomes payable. It is open for the authorities under the provisions of Section 4(6) of the Act, notwithstanding the provision of sub section (1) of section 4 to withhold gratuity of an employee whose services have been terminated for any act, wilfull omission or negligence causing any damage or loss or (2) destruction of property belonging to the employer. It is open for the employer to forfeit gratuity to the extent of damage or loss so caused.”*

---

<sup>1</sup> *Chairman and Managing Director Union Bank of India and Ors. vs. Jaykant R. Gohil* (06.06.2022 - GUJHC) : MANU/GJ/1438/2022

<sup>2</sup> Paragraph 6 of the Judgement.

2. Observed that despite issuance of a charge-sheet in 2011 and the order of dismissal in 2012 against Gohil, UBI invoked Section 4(6)(a) only in 2015, i.e., after the penalty of termination was lowered to compulsory retirement.<sup>3</sup>
3. Upheld the opinion of the AA that the action of UBI was clearly an afterthought.<sup>4</sup>
4. Noted that there was no quantification of the loss caused by Gohil but for a single-line averment in the show-cause notice that he had caused a loss of Rs. 4.36 crores.<sup>5</sup>
5. Reasoned with UBI's contention that challenged the powers of the competent authorities to delve into the order of the Employer's disciplinary authority and stated:<sup>6</sup>  
*"Aid can always be taken by the authorities under the Act to assess the mindset of the bank especially when the bank had sought to invoke Section 4(6)(a) of the Act more than two and half years after the respondent was penalised. It was in this context that the authority appreciated the order of the Controlling Authority which also did not hold the respondent of having caused financial loss or damage to the bank."*
6. Allowed the petition and directed payment of gratuity as ordered by the AA. However, the rate of interest on the gratuity amount due was reduced from 10% to 8%.<sup>7</sup>

-----

This *Counselence Connect* contains information in a nutshell on a recent change in law. This is not legal advice and must not be treated so. For any clarifications, please contact us at [info@counselence.com](mailto:info@counselence.com). Past issues of *Counselence Connect* are available at the 'Newsletters' page of our website (<http://www.counselence.com>).

---

<sup>3</sup> Paragraph 6.2 of the Judgement.

<sup>4</sup> Paragraph 7 of the Judgement.

<sup>5</sup> Paragraph 9 of the Judgement.

<sup>6</sup> Paragraph 10 of the Judgement.

<sup>7</sup> Paragraph 12 of the Judgement.