

HR Law Hotline

April 03, 2025

LEAVE ENCASHMENT UPON DISMISSAL: A VESTED RIGHT OR EMPLOYER'S DISCRETION?

- An employee dismissed from service remains entitled to privilege leave encashment unless expressly barred by a statutory provision.
- Once earned, leave encashment becomes an employee's financial entitlement and cannot be withheld arbitrarily, as recognized under Article 300A of the Constitution of India.
- In the absence of a clear provision in service regulations allowing forfeiture, employers cannot deny leave encashment, even in cases of dismissal due to misconduct.

I. INTRODUCTION

The right to leave encashment for employees is a well-recognized benefit in employment law, often governed by statutory provisions, service regulations, or contractual agreements. Leave encashment refers to the compensation offered to employees for unused paid leaves accumulated during their tenure of service. While employees who retire or resign are generally entitled to encash their accumulated paid leaves, complexities arise in cases where an employee is dismissed due to misconduct. The key legal question discussed under one of the recent judgments is whether an employer can deny encashment of privilege leave upon dismissal, particularly when the benefit has already accrued. Previously, courts in several cases have examined this issue in light of service regulations, statutory rights, and constitutional protections under Article 300A of the Constitution of India, which safeguards an individual's right to property.

This case, **G. Linganagouda v. General Manager, Karnataka Gramina Bank¹** ("Gramina Bank Case"), deals with the petitioner's claim for encashment of 220 days of privilege leaves following his dismissal on account of misconduct from service by Pragathi Krishna Gramin Bank ("Bank"). The Bank denied the claim, on the ground that the petitioner has been dismissed from service, on account of misconduct and therefore, the Pragathi Krishna Gramin Bank (Officers and Employees) Service Regulations, 2013 ("Regulations"), would not permit payment of leave encashment to an employee, who has been dismissed from service. Therefore, the petitioner had approached the Karnataka High Court ("Karnataka HC"), challenging the denial and seeking recognition of his entitlement to leave encashment.

II. GRAMINA BANK CASE

a. Factual Background

In this case, the petitioner, G. Linganagouda, joined the Bank (formerly Thungabhadra Gramina Bank) as an Assistant Manager on May 23, 1983, and served in various branches. On March 31, 2012, the Bank initiated disciplinary proceedings against him, alleging misconduct. Following an enquiry, he was found guilty, and the disciplinary authority imposed a penalty of dismissal from service effective December 19, 2014. After his dismissal, the petitioner sought encashment of 220 days of accrued privilege leave, which was denied by the Bank, citing Regulation 67 of the Regulations. The petitioner sent a legal notice on September 21, 2024, demanding payment, but the Bank rejected the claim through an order dated October 4, 2024. Aggrieved by the decision, the petitioner approached the Karnataka HC, Dharwad Bench, seeking a writ of certiorari to quash the Bank's rejection order and a writ of mandamus directing the Bank to release the leave encashment with interest.

b. Issues raised

The primary issue raised in light of the above-mentioned facts is whether an employee who is imposed with a penalty of dismissal from service is entitled to the grant of encashment of privilege leave.

c. Arguments advanced

- The petitioner argued that leave encashment is a vested right that accrues during an employee's service and cannot be forfeited upon dismissal, as it is his entitlement under the Regulations, specifically Regulation 61 which allows privilege leave to be accumulated up to 240 days. It was contended that Regulation 67, which deals with lapsing of leave, cannot be invoked to deny leave encashment.
- Further, the petitioner relied on the decision in **Ashok s/o. Murjappa Potphale and Others v. Chief Secretary, Union of India, Banking Division and Others²**, wherein the Division Bench of the Bombay High Court examined the provisions of the Maharashtra Gramin Bank (Officers and Employees) Service Regulations, 2010, which are identical to the Regulations. The Bombay High Court found that there was no provision allowing the withholding of leave encashment on the grounds of penalization and directed the Bank to pay the privilege leave encashment to the petitioners as per their entitlement, considering the accumulated privilege leave standing to their credit.

Research Papers

Structuring Platform Investments in India For Foreign Investors

March 31, 2025

India's Oil & Gas Sector— at a Glance?

March 27, 2025

Artificial Intelligence in Healthcare

March 27, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

■ The respondent Bank, on the other hand, maintained that Regulation 67 deals with 'lapse of leave' and explicitly states that all leave lapses when an employee ceases to be in service, except in cases of retirement or retrenchment. The Bank argued that since the petitioner was dismissed due to misconduct and has ceased to be in employment of the Bank, he would not be entitled to encashment of privilege leave.

d. Findings of the Court

The Karnataka HC examined whether the petitioner, having been dismissed from service due to misconduct, was entitled to encashment of 220 days of accrued privilege leave. In doing so, the Karnataka HC analyzed Regulations 61 and 67 of the Regulations to determine whether the Bank was justified in denying leave encashment. It noted that Regulation 61 recognizes an employee's right to earn and accumulate privilege leave, providing that such leave may be encashed in certain circumstances. Regulation 67, on the other hand, deals with the lapse of leave upon cessation of employment and states that leave shall lapse when an employee ceases to be in service, except in cases of retirement or retrenchment. However, the Karnataka HC observed that Regulation 67 does not explicitly bar leave encashment for employees dismissed from service.

The Karnataka HC relied on precedents from the Bombay High Court and Madhya Pradesh High Court, specifically ***Dattaram Atmaram Sawant and Another v. Vidharbha Konkan Gramin Bank, Through its Chairman***³ and ***Mohanlal Gupta v. Madhyanchal Gramin Bank, Sagar and Another***⁴ (**'Mohanlal Gupta Case'**). These cases ruled that leave encashment is a vested right akin to property under Article 300A of the Constitution of India and cannot be arbitrarily withheld unless a specific statutory provision authorizes forfeiture.

The Madhya Pradesh High Court, in the Mohanlal Gupta Case, relied on the judgment of the Hon'ble Supreme Court in ***D.S. Nakara and Others v. Union of India***⁵, wherein the Apex Court placed pension and leave encashment on a similar footing. It held that once such benefits are earned, they become the property of the employee, and if an employee is to be deprived of such property, there must be a specific provision in the statutory rules governing the field.

The Karnataka HC emphasized this principle, stating *"the benefit of leave encashment to an employee is trite, a statutory right, but it has an imprimatur to the legal principle that the right to receive terminal benefits is recognized as a right to property obtaining under Article 300A of the Constitution of India. Article 300A mandates that persons shall not be deprived of property save by authority of law. Therefore, it becomes unmistakably clear that any attempt of the employer to take away the right of any part of terminal benefit, which in the case at hand is leave encashment, without any umbrage of a statutory provision, such action is sans countenance."*

Karnataka HC further noted that leave encashment is a financial entitlement that is not dependent on the manner of separation but rather on the fact that the employee had already accrued the leave during their tenure. Since the Bank failed to demonstrate any provision in the Regulations that permitted the forfeiture of leave encashment in cases of dismissal, the Karnataka HC found the denial of the petitioner's claim to be legally unsustainable.

Accordingly, the Karnataka HC quashed the Bank's decision, rejecting the petitioner's request for leave encashment, and directed the Bank to release the leave encashment for 220 days. Additionally, it ruled that if payment was not made within 2 months, the petitioner would be entitled to interest at 6% per annum on the amount due.

III. ANALYSIS AND CONCLUSION

This is one of the pivotal judgments which discusses the impact on terminal benefits in case of dismissal of an employee on account of misconduct. In the present case, the Karnataka HC's judgment underscores a crucial legal principle: leave encashment is a vested right. The Karnataka HC's analysis was based on Regulations 61 and 67 of the Regulations, as well as constitutional protections under Article 300A of the Constitution of India. While Regulation 67 stipulates that leave lapses upon cessation of employment, except in cases of retirement or retrenchment, it does not explicitly bar leave encashment for dismissed employees. The Karnataka HC, therefore, rejected the Bank's reliance on this provision to deny the petitioner's claim.

A key takeaway from this case is that leave encashment is not a discretionary benefit but an accrued entitlement. The Bombay High Court and Madhya Pradesh High Court had previously ruled that leave encashment constitutes property under Article 300A, and the Karnataka HC reaffirmed this position. The ruling reinforces the broader principle that once employment benefits accrue, they cannot be arbitrarily withheld. This decision is a significant affirmation of employees' rights concerning terminal benefits, particularly leave encashment. It reiterates that earned leave is a financial right that does not automatically lapse upon dismissal and, in the absence of an explicit statutory provision barring its encashment, it must be honored. By holding that the Bank's denial was legally unsustainable, the Karnataka HC has set a precedent ensuring that employers cannot arbitrarily withhold financial benefits accrued during an employee's tenure.

This judgment reinforces that employers must honor this right, failing which courts can direct them to compensate affected employees with interest.

Authors

- Somya Bhargava, Kajol Pokkhriyal and Deepti Thakkar

HR Law Team:

Nishith Desai, HR and Global Business Strategy

Deepti Thakkar, Leader, HR Advisory

You can direct your queries or comments to the relevant member.

Vaibhav Parikh, Partner, Nishith Desai Associate on Tech, M&A, and Ease of Doing Business

March 19, 2025

SIAC 2025 Rules: Key changes & Implications

February 18, 2025

¹WP No. 100339 of 2025

²2017 (3) Mh. L.J. 540

³2024 SCC OnLine Bom 1253

⁴2023 (1) M.P.L.J. 209

⁵(1983) 1 SCC 305

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.