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Orissa HC slams Cuttack bank for holding back gratuity over a loan guarantee—reaffirms Section 4(6) is the only key to forfeit gratuity dues.

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On 20 September 2025 a Division Bench of the Orissa High Court delivered a crisp reminder that the Payment of Gratuity Act, 1972 is not an invisible clause in a loan agreement. Chief Justice Harish Tandon and Justice M. S. Raman told the Cuttack Central Cooperative Bank Ltd. that a retired employee's gratuity can be withheld only if the narrow knife edge conditions of Section 4(6) are satisfied, superannuation with a clean slate is simply not good enough for the bank to grab the money.

The story begins in 2010 when the Respondent, a Deputy Manager with the appellant bank retired on 31 July after reaching the age of superannuation. No disciplinary blot tarnished her record; yet the bank refused to hand over her retiral kitty. The reason: she had once signed as a personal guarantor to a loan that later soured, and the bank felt the unpaid dues could be squared off against her gratuity. The employee first knocked at the door of the Controlling Authority under the Payment of Gratuity Act which, after a quick look at the statute, ordered immediate payment. The bank escalated the matter to the Appellate Authority (Joint Labour Commissioner, Bhubaneswar but met the same fate on 28 March 2022. Still unwilling to budge, the institution filed a writ petition before the Orissa High Court; the Single Bench dismissed it on 8 November 2024, reiterating that no provision in the Act allowed such setoff. The present writ appeal is the bank's third roll of the dice.

The bank reiterated its familiar line: because the employee's liability as guarantor is coextensive with that of the principal borrower, the gratuity must wait until the loan is fully liquidated. The retired officer, replied that the gratuity is neither a bounty nor collateral; it is deferred wages earned over decades of unblemished service. The State broadly supported the concurrent findings below.

The court's analysis zeroed in on Section 4(6) which begins with a non obstante clause and permits forfeiture "to the extent of the damage or loss" suffered by the employer provided the employee has been "terminated" for a wilful act, omission or negligence causing such damage. Retirement on superannuation, the judges pointed out, is the antithesis of termination for misconduct; therefore, the very trigger for forfeiture is absent. They added that reading a guarantor's civil liability into the statute would amount to enlarging its contours by judicial ink, something the legislature has expressly forbidden. Citing the well settled principle that gratuity is a statutory right earned by successful completion of service, the bench refused to see it as a handy security deposit for cooperative credit.

On the procedural plane, the court noted that three statutory fora had already walked the same road; interference under Article 226 is justified only when findings are perverse, irrational or beyond statutory remit, none of which was demonstrated. Consequently, the writ appeal was dismissed as devoid of merit, with no order on costs. The bank was left to release the gratuity forthwith if it had still not done so.

The gavel that dismissed the bank's appeal is also a wakeup bell for every payroll office: superannuation may end the attendance register, but it does not open a side door to the gratuity chest. Parliament alone holds the key—Section 4(6) of the 1972 Act and that lock opens only on proof of misconduct, not on the echo of a defaulted guarantee. Loan setoffs, indemnity letters and other inventive recovery tools may flourish in civil suits; at the threshold of gratuity, they simply melt away.

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