



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Reserved on: 22.04.2025

Pronounced on: 28.05.2025

(1) LPA-766-2025 (O&M)

LEKHRAJ

.....Appellant

Versus

APPELLATE AUTHORITY, PAYMENT OF GRATUITY
ACT, 1972 AND OTHERS

.....Respondents

(2) LPA-767-2025 (O&M)

PAWAN KUMAR JETHI

.....Appellant

Versus

APPELLATE AUTHORITY, PAYMENT OF GRATUITY
ACT, 1972 AND OTHERS

.....Respondents

(3) LPA-768-2025 (O&M)

SATINDER PAL SINGH

.....Appellant

Versus

APPELLATE AUTHORITY, PAYMENT OF GRATUITY
ACT, 1972 AND OTHERS

.....Respondents

(4) LPA-769-2025 (O&M)

AJAY KUMAR SHARMA

.....Appellant

Versus

APPELLATE AUTHORITY, PAYMENT OF GRATUITY
ACT, 1972 AND OTHERS

.....Respondents

(5) LPA-771-2025 (O&M)

HARBANS SINGH

.....Appellant

LPA-766-2025 (O&M) & other connected matters

Versus

APPELLATE AUTHORITY, PAYMENT OF GRATUITY
ACT, 1972 AND OTHERS

.....Respondents

(6) LPA-963-2025 (O&M)

THE CHIEF MANAGING DIRECTOR, CENTRAL BANK
OF INDIA AND ANOTHER

.....Appellants

Versus

PAWAN KUMAR JETHI AND OTHERS

.....Respondents

(7) LPA-965-2025 (O&M)

THE CHIEF MANAGING DIRECTOR, CENTRAL BANK
OF INDIA AND ANOTHER

.....Appellants

Versus

SATINDER PAL SINGH AND OTHERS

.....Respondents

(8) LPA-968-2025 (O&M)

THE CHIEF MANAGING DIRECTOR, CENTRAL BANK
OF INDIA AND ANOTHER

.....Appellants

Versus

BHUSHAN KUMAR SADANA AND OTHERS

.....Respondents

LPA-766-2025 (O&M) & other connected matters

(9) LPA-969-2025 (O&M)

THE CHIEF MANAGING DIRECTOR, CENTRAL BANK
OF INDIA AND ANOTHER

.....Appellants

Versus

HARBANS SINGH AND OTHERS

.....Respondents

(10) LPA-970-2025 (O&M)

THE CHIEF MANAGING DIRECTOR, CENTRAL BANK
OF INDIA AND ANOTHER

.....Appellants

Versus

LEKH RAJ AND OTHERS

.....Respondents

(11) LPA-990-2025 (O&M)

THE CHIEF MANAGING DIRECTOR, CENTRAL BANK
OF INDIA AND ANOTHER

.....Appellants

Versus

AJAY KUMAR SHARMA AND OTHERS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Sumeet Jain, Advocate for appellants (writ
petitioners).
Ms. Madhu Dayal, Advocate
for the respondent-Bank.

ALOK JAIN, J.

This order shall dispose of a batch of 11 intra
Court appeals as mentioned above, arising out of a common

LPA-766-2025 (O&M) & other connected matters

order dated 28.02.2025 passed by the learned Single Judge, whereby two sets of writ petitions i.e., one filed by the workmen-Deposit Collectors of the Bank and another filed by the Bank itself, were dismissed, thereby upholding the orders dated 25.08.2023 and 28.11.2024, passed by the Controlling and the Appellate Authorities under the Payment of Gratuity Act, 1972 (for short 'the 1972 Act') However, for the facility of reference, the facts are taken from LPA-766-2025 arising out of CWP-3657-2025.

2. For ease of reference and better understanding, collection agent/writ petitioner be hereinafter referred to as the appellant and the Bank as the respondent.

3. The factual position is narrated in the tabulated form as under:-

1979-2022	The appellant was rendering his services as Authorized Collection Agent under the Central Mini Deposit Scheme of the respondent Bank.
01.04.2022	The said Scheme of the respondent was discontinued.
13.10.2022	The appellant submitted his claims before the Controlling Authority under the 1972 Act, for grant of gratuity along with interest on delayed payment of gratuity. The appellant submitted his claim by taking his last drawn amount to be treated as his wages,

LPA-766-2025 (O&M) & other connected matters

	<p>which included “fall back wages plus incentives” and pleading the cut-off date as 31.03.2022 on the ground that the said scheme was discontinued thereafter.</p>
25.08.2023	<p>The Controlling Authority, while returning a finding that the appellant was held entitled to the gratuity as per Section 4(1) of the 1972 Act, allowed the claims of the appellant by taking only his “fall back wages” as wages holding him entitled to gratuity.</p>
15.09.2023	<p>Two sets of appeals were filed before the Appellate Authority under the 1972 Act.</p> <p>First set of appeals filed by the appellant and other workmen claiming the correction of the calculation by taking their incentive also in their wages for calculation and Second set of appeals filed by the respondent-Bank challenging the order of the Controlling Authority by submitting that the appellant and the other workmen, were not entitled to gratuity as they were neither employees of the Bank nor had they been paid any wages.</p>
28.11.2024	<p>The Appellate Authority vide common order dated 28.11.2024 upheld the order of the Controlling Authority and dismissed both sets of appeals.</p>
	<p>This led to filing of two sets of civil writ petitions,</p>

LPA-766-2025 (O&M) & other connected matters

	one by the appellant and other workmen and the second by the respondent-Bank.
28.02.2025	The learned Single Judge by a common order in both sets of writ petitions, dismissed all the writ petitions upholding the order passed by the Controlling Authority and Appellate Authority.

3. Learned counsel for the appellant has argued that the appellant had continuously worked from 1979 till 2022 (when the scheme under reference was discontinued) under the Central Mini Deposit Scheme as an Authorized Collection Agent on commission basis with the respondent-Bank. It is further argued that post discontinuation of the aforesaid scheme, the appellant filed a claim before the Controlling Authority claiming the gratuity under the 1972 Act, by taking into consideration 'the fall back wages' as his last drawn wages and also taking within the ambit of said wages, the commission paid to the appellant. It is further argued that the Controlling Authority vide order dated 25.08.2023 had partially allowed the claim by holding the appellant entitled to the gratuity on the amount of 'fall back wages', but had excluded the commission, which was being paid to him by the respondent-Bank, as an incentive. It is further argued that the aforesaid order was challenged by way of an appeal before the Appellate Authority, which vide

LPA-766-2025 (O&M) & other connected matters

order dated 28.11.2024, had dismissed the same and a further challenge to the aforesaid orders before the learned Single Judge, has remained unsuccessful, as noticed above.

4. Learned counsel for the appellant has argued that the question of law which arose for consideration before the learned Single Judge was whether the incentive or commission earned by the appellant would fall within the definition of wages as defined under Section 2 (s) of the 1972 Act and whether such commission could have been excluded from the wages for computing the gratuity payment to the appellant. It is further submitted that the appellant has to be treated as a workman on the strength of the judgment of the Hon'ble Apex Court in **Indian Bank Association Vs. Workmen of Syndicate Bank, and others**, 2001 (3) SCC 36 and, therefore, the "fall back wages" plus the incentive remuneration received by the appellant has to be taken as his wages. He has also tried to draw an analogy that the incentives and the "fall back wages" would collectively amount to be the remuneration and, hence, has to be treated as wages and, thus, the appellant is entitled to receive the gratuity by taking the said remuneration as his wages. It is, thus, argued that while passing the impugned order, the learned Single Judge, has wrongly discarded the case set up by the appellant and the arguments raised for and on his behalf.

LPA-766-2025 (O&M) & other connected matters

5. Mrs. Madhu Dayal, Advocate, appearing for the respondent-Bank submits that the analogy sought to be drawn by the appellant by claiming himself to be the workman on the strength of the judgment in **Indian Bank Association** (supra) is completely misconceived. It is further submitted that there is no denial to the fact that the appellant has to be treated as workman, but only for the purposes of any action under the Industrial Disputes Act, 1947, as the above said judgment was also in the backdrop of the provisions of the said Act. It is contended that the 1972 Act, is an independent piece of legislation and the term 'wages' has been clearly defined therein. She further submits that the word commission has been specifically stated in the exclusion clause to the definition of wages and, therefore, the amount of commission received by the appellant cannot be stretched to the extent of declaring it to be wages, especially in the light of a specific bar under the provisions of the 1972 Act. It is further submitted that the appellant being a commission agent cannot be treated as a workman of the respondent-Bank and, therefore, he is not entitled to any gratuity even on the 'fall back wages', but the said legal aspect has totally been overlooked by the Authorities under the 1972 Act as also by the learned Single Judge.

6. Learned counsel for the respondent-Bank has

LPA-766-2025 (O&M) & other connected matters

also assisted this Court with regard to the term “fall back wages” by submitting that the payment of such wages is subject to the minimum deposit per month. While referring to the decision of the Industrial Tribunal, Hyderabad in the award dated 22.12.1988, wherein it was, *inter-alia*, held that the Deposit Collectors and Agents, who are below the age of 45 years as on 03.10.1980 and also those, who are unwilling to be absorbed in regular Banks service, they shall be paid the fall back wages of Rs.750 per month linked with minimum deposit of Rs.7500/- per month and they should be paid incentive remuneration @ 2% for collection of over and above Rs.7500/- per month. It is argued that the “fall back wages” are in fact, the minimum commission that the deposit agents will have to earn. It is further submitted that the same was revised vide Central Government Industrial Tribunal, Delhi award dated 07.10.2013, for the category of cities in which the deposit agents work, because in case the deposit agents fail to collect the minimum amount of collection consecutively for two quarters of a year, his contract would be terminated by the Bank without further notice.

7. Learned counsel for the respondent-Bank has also argued that the term “fall-back wages” is nothing, but the minimum commission which is to be paid to the deposit collectors and agents and the same is not to be considered

LPA-766-2025 (O&M) & other connected matters

as emoluments that are earned by the tiny deposit collectors. It is further argued that the distinction between the “fall back wages” and “incentive remuneration” is that whereas the former is the minimum component of the emoluments linked to a minimum deposit of collection, the latter is a variable component of commission linked to the quantum of collection of deposits over and above the minimum collection. It is further argued that the appellant is not earning wages and, therefore, he is not entitled to gratuity under the 1972 Act. Learned counsel for the respondent-Bank has further argued that the benefit of gratuity extended to the commission agents in terms of the orders/awards/judgment passed by the CGIT, Delhi and the Delhi High Court @ Rs.4000/- for “every year completed” demonstrates the benevolence and acknowledgement of the deposits collected by commission agents, but cannot be taken as a ground to make the respondents liable for compliance of statutory provisions, which are not attracted to it.

8. Heard learned counsel for the parties at length.

9. The question that arises for consideration by this Court is whether the impugned order passed by the learned Single Judge, upholding the orders passed by the Authorities under the 1972 Act, requires any interference. In order to answer the said question, the following two

LPA-766-2025 (O&M) & other connected matters

points need to be determined:-

- (i) *Whether there is a relationship of employer and employee between the respondent-Bank and the appellant?*
- (ii) *Whether the “fall back wages” can be considered as wages under the 1972 Act?*

10. Before proceeding further in the matter, it would be just and relevant to reproduce the statement and object and the relevant provisions of the 1972 Act, and that of the Industrial Disputes Act, 1947, as under:-

“The Industrial Disputes Act, 1947

An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.

Definition of Wages under Section 2 (rr)

“wages” means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes –

- (i) Such allowances (including dearness allowance) as the workman is for the time being entitled to;
 - (ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;
 - (iii) any travelling concession;
 - (iv) any commission payable on the promotion of sales or business or both;]
- but does not include –
- (a) any bonus;
 - (b) any contribution paid or payable by the

LPA-766-2025 (O&M) & other connected matters

employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;
(c) any gratuity payable on the termination of his service;]

The Payment of Gratuity Act, 1972

An Act to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto.

Definition of Employee under Section 2 (e)

“employee” means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.

Definition of Wages under Section 2 (s)

“Wages” means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employments and which have paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

Section 4(1) of the Payment of Gratuity Act, 1972

4. Payment of gratuity. – (1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years, -

LPA-766-2025 (O&M) & other connected matters

- (a) on his superannuation, or
- (b) on his retirement or resignation, or
- (c) on his death or disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

[Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such Bank or other financial institution, as may be prescribed, until such minor attains majority.]

Explanation. - For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he, was capable of performing before the accident or disease resulting in such disablement.”

11. From the above reproduced statutory provisions, it is apparent that the 1947 Act, was enacted for an investigation and settlement of industrial disputes, and for certain other purposes, whereas the 1972 Act was enacted in order to pay gratuity to the employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto. Under the 1972 Act, an employee means any person other than an apprentice, who is employed for wages on the experience or

LPA-766-2025 (O&M) & other connected matters

implied terms for any kind of work in a factory, mine, oilfield, plantation, port, railway company, shop or other establishment, but it does not include any person, who holds a post under the Central or State Government and is governed by any other Act or any other rules providing for payment of gratuity. Section 4 of the 1972 Act stipulates that the gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years.

12. The definition of wages is different under both the Acts. Whereas under 1947 Act, wages means all remuneration capable of being expressed in terms of money, which would, if the terms of employment expressed or implied, were fulfilled and such wages includes dearness allowance; value of any house accommodation; any travelling concession and any commission payable on the promotion of sales or business or both, but does not include any bonus, contribution or any gratuity payable on terms of service of an employee. However, under the 1972 Act, wages means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which have been paid or are payable to him in cash and includes dearness allowance, but does not include any bonus, commission,

LPA-766-2025 (O&M) & other connected matters

house rent allowance, over time wages and any other allowance.

13. Thus, in order to answer point No.(i), it would be just and expedient to refer to the terms of the employment of the appellant. Relevant Clauses i.e. opening part and Clause (1) and (6) of the proforma of agreement (Annexure P.3 with CWP-5714-2025), stipulates as under:-

“This agreement made this 10th day of October, 1977 between Mr. Om Parkash Sabharwal inhabitant residing in House No. 300/1, Dhokh Diggiti, Kachi Bazar, Ambala Cantt. (hereinafter called the authorized collection agent) of the one part and Central Bank of India, body corporate constituted under the Banking Companies (Acquisition and transfer of Undertakings) Act, 1970 and having its Head Office at “Chander Mukhi” Nariman Point Bombay 400021 and a Branch Office inter alia at Niclsohoud Ambala Cantt in Haryana State (hereinafter referred to as the Bank which expression I shall unless repugnant to the context or meaning thereof include its successors and assigns) of the other part.

xx xx xx

“1. The Agency shall commence from the date of execution of these presents and shall continue to remain in force until terminated by the Bank at its discretion (without any notice) or/and without

LPA-766-2025 (O&M) & other connected matters

assigning any reason by the Authorized Collection Agent giving a three months' notice of his intention to relinquish this Agreement.

xx xx xx

6. The Authorized Collection Agent will be paid by the Bank Commission at the rate of 3% on all Deposits brought by him under the Scheme, no remuneration being payable on deposits made direct at the Branch. The said commission will be made in the first week of each month for deposits turned in during the previous month as per entries made in the relative Branch Registers, subject to the conditions hereinafter stipulated.”

14. It may be noticed that the matter regarding whether or not the commission agents are employees of the Bank, came up for consideration before the Hon'ble Supreme Court in **Indian Bank Association's** case (supra). In the said case, it has been held by the Supreme Court that undoubtedly the deposit collectors are not regular employees of the Bank, but they, nevertheless are workers within the meaning of the term as defined in the 1947 Act, and there is a clear relationship of master and servant between the deposit collectors and the Bank concerned. In Para No. 27 of the judgment, it was held as under:-

“27. We also see no force in the contention that Section 10 of the Banking Regulation Act prevents

LPA-766-2025 (O&M) & other connected matters

employment of persons on commission basis. The proviso to Section 10 makes it clear that commission can be paid to persons who are not in regular employment. Undoubtedly the Deposit Collectors are not regular employees of the Bank. But they, nevertheless, are workers within the meaning of the term as defined in the Industrial Disputes Act. There is clearly a relationship of master and servant between the Deposit Collectors and the Bank concerned.”

Though the said judgment was delivered in the context of the provisions of the 1947 Act, yet the fact remains that the ratio of master-servant relationship held in the said judgment, would also be applicable in order to examine the claim of the workman under the 1972 Act. It may be noticed that after the decision of the Hon'ble Supreme Court in the aforesaid case, the Central Bank of India, Zonal Office, Sector-17, Chandigarh, had issued a circular dated 13.01.2002, thereby providing the following relief to the Tiny Deposit Collectors in the Bank.

“Central Office, PRS Legal vide their letter No. CQ:PRS:LEGAL:GSG:MISC: 809: 01-02-698 dated 25th December, 2001 has advised us that the Banks may proceed against the Tiny Deposit Collector in the following manner:-

2.1 Put on Notice all the Deposit Collectors, that on and from 28.03.1997, the commission payment to them on the monthly collections shall be as per

LPA-766-2025 (O&M) & other connected matters

the Award (details to be given in the Notice i.e. you may mention in the Notice that the Tiny Deposit Collectors as per the Award of the Tribunal) and pending calculation of arrears/recoveries they will be paid commission as per the Award.

2.2 Back wage of Rs.750/- per month linked to minimum deposit Rs.7500/-p.m.

2.3 2% commission for deposit collected over and above Rs.7500/- p.m.

2.4 Uniform Conveyance allowance of Rs.50/- per month for deposit collected less than Rs.10,000/- and Rs.100/- per month for deposit collected over Rs.10,000/-.

2.5 Besides they are also entitled to be paid Gratuity equal to 15 days commission for each year of service rendered by the Deposit Collectors and whose agencies got terminated on or after 28.03.1997 for reason other than misappropriation/fraud/forgery. Gratuity may have to be paid at the rate of 15 days average commission for each year of service rendered. As such, you may accordingly arrive at the gratuity payable to the Tiny Depositors and pay them against valid discharge.”

15. It may further be noticed that vide an award dated 07.10.2013, passed by the Central Government Industrial Tribunal, gratuity @ Rs.4,000/- for every completed year was awarded to the Deposit Collectors. The said award was challenged in Delhi High Court by way of a writ petition. The learned Single Judge in **State Bank of Bikaner and Jaipur and others Vs. All India Bank Deposit Collectors Federation and another**, 2016(3) SLR

LPA-766-2025 (O&M) & other connected matters

347, while upholding the award, set aside the gratuity part has held as under:-

“71. Keeping in view the above discussion, I find no discrepancy in Award dated 07.10.2013, except the gratuity part. Accordingly, order on gratuity is hereby set aside. However, liberty is granted to the respondents to claim gratuity, if they are entitled, under the Payment of Gratuity Act, 1972 before the appropriate forum.”

The matter went in LPA before the Division Bench and the Division Bench in **State Bank of Hyderabad and others Vs. All India Bank Deposit Collectors Federations and another**, 2015(20) SCT 347, has modified the impugned award dated 07.10.2013 and made it operative prospectively.

16. Subsequently, the Central Bank of India issued a circular dated 26.04.2017 implementing the order passed by the Delhi High Court giving the following benefit to the Collection Depositors.

“We have been informed by Central Office for implementation of the award vide above mentioned letter that Award dated 07/10/2013 as modified by Hon’ble Delhi High Court vide judgments dated 20/04/2015 in W.P. No.7833/2014 and 05/10/2015 in LPA 437/2015 in the matter of Bank V/s All India Bank Deposit Collectors Federation & Ors be implemented inter alia

LPA-766-2025 (O&M) & other connected matters

by allowing Fall Back Wages. Incentive Remuneration and Conveyance allowance for Deposit Collectors under the CMDS Scheme, in terms of their eligibility as laid down by the Central Government Industrial Tribunal, Delhi.

The Gist of criteria stipulated in the said judgment dt. 07/10/2013 is as under for Tier A, B & C cities is as under:-

Nature of Financial Benefits	QUANTUM OF MONTHLY COLLECTION						
	PARAMETER	EXISTING			REVISED AS PER AWARD w.e.f. 07/10/2023		
		C	B	A	C	B	A
	MINIMUM COLLECTION	3 Lacs	4 Lacs	5 Lacs	3 Lacs	4 Lacs	5 Lacs
Fall back Wages	Minimum of Rs.750/- subject to collection of Rs.7500/- pm and 2% commission on collection over and above Rs.7500/-.	6600	8600	10600	8000	11000	14000
Conveyance	Min.50 Max. 100	50 OR 100	50 OR 100	50 OR 100	750	750	750
	Total	6700	8700	10700	8750	11750	14750

XX

XX

XX

B) On Collection of over and above Rs. 3 Lakh and up to Rs.5 Lakh, all deposit collectors, irrespective of their areas of operation, will earn incentive remuneration of 3%. Thus, a deposit collector of area 'B' & 'C' area city would get Rs.3000/-

LPA-766-2025 (O&M) & other connected matters

and Rs.6,000/- respectively per month as incentive remuneration on minima limit of their collection. On collection of over and above Rs. 5 Lakh, a depositor collector would get incentive remuneration of 2%.

C) In case of failure of collector to meet minima standard of collection i.e., Rs. 3 Lakh per month, consequently for two quarters of a year, his contract of service would be snapped by the Bank without any further notice to him. For this inefficiency, he will not be able to claim any right of being heard from the Bank.

D) The date of the effect of the revision of Fall Back wages, conveyance & incentive will be from 07/10/2013.

In view of the Award passed by the Hon. Court, All Branches are advised to implement the same and pay the Fall Back Wages. Conveyance and incentive to the eligible CMDS Agents working in the Branch as on 07/10/2013.”

From the aforesaid factual and legal position, it is apparent that the circular dated 13.01.2002 has never been withdrawn by the respondent-Bank. The said circular had extended the benefit of gratuity to the collection depositors. Further, the issuance of the circular on 26.04.2017 does not indicate that the benefit of gratuity extended vide circular issued in 2002 has been withdrawn. In view of the pronouncement of the Hon’ble Supreme Court in Syndicate Bank case (supra), coupled with the subsequent circulars issued by the Central Bank of India thereby treating the collection agents as their employees, it is held that there is a relationship of master and servant between the respondent-Bank and the appellant and, therefore, the

LPA-766-2025 (O&M) & other connected matters

appellant would be covered by the definition of the employee under the 1972 Act.

17. The first point having been answered, now we may advert to point No. (ii) i.e. whether “the fall back wages” can be considered as wages under the 1972 Act. In this regard, it may be noticed that the emphasis of the learned counsel for the respondent-Bank is on the fact that the “fall back wages” is nothing, but the minimum commission earned by the Collection Depositor. However, we do not find any substance in the said argument for the simple reason that the term of “fall back wages” defined by the Industrial Tribunal, Hyderabad, has been upheld by the Hon’ble Supreme Court in **Syndicate Bank’s** case (supra), wherein it has been clearly laid down that the Deposit Collectors would be paid minimum amount as the “fall back wages” and such “fall back wages” would earn remuneration/incentives on the amount collected by them for onwards deposit in the Bank. The concept of the “fall back wages” thus, means that the minimum amount of wages is to be paid to the collection agents and the same has been deliberated in extenso by Delhi High Court in **State Bank of Hyderabad’s case** (supra) and as indicated above, the said judgment of the Delhi High Court has already been implemented by the respondent-Bank. Though an SLP is stated to be pending against the said decision, yet

LPA-766-2025 (O&M) & other connected matters

the fact remains that once the directions of Delhi High Court have been complied with, we need not deliberate the matter any further on the said count.

18. In our opinion the “fall back wages” cannot be considered to be commission as it is clearly stipulated in the aforesaid pronouncements of the Hon’ble Supreme Court and Delhi High Court that the commission and incentive is over and above the “fall back wages” earned by the deposit agents. In the circular issued on Central Bank of India on 26.04.2017, while implementing the order/judgment of the Delhi High Court, it has been clearly mentioned that the ‘fall back wages’ are different from incentive and conveyance allowance. It is further clear that only a limit of fall back wages has been set i.e. Rs.750/- on collection of Rs.7500/- from 2001 to 2013 and from 2013 to 2022 Rs.14,000/- on collection of Rs.5,00,000/-. Thus, the commission being over and above the said amount of fall back wages, the latter term cannot be included in the former.

19. Still further, if the contention of the learned counsel for the respondent-Bank that the “fall back wages” is nothing but a commission earned by the deposit agents, is accepted, then there is no logic in the stand of the respondent-Bank that the incentive and commission would

LPA-766-2025 (O&M) & other connected matters

increase based on the collections made by the deposit agents. Thus, the concept of minimum “fall back wages” is nothing, but the minimum wages which collection agent is entitled to. The commission/incentive being over and above the ‘fall back wages’, cannot be included into the wages as defined under the 1972 Act, as payment of commission has been excluded in the definition of the wages under the said Act.

20. We, thus, find that the learned Single Judge, is perfectly justified in holding that in terms of the circular issued by the Central Bank of India on 26.04.2017, the respondent-Bank cannot be allowed to backtrack and plead that the “fall back wages” do not fall under the definition of the wages under the 1972 Act. As noticed above, by considering the concept of minimum “fall back wages”, the respondent-Bank has already granted benefits of convenience allowance and incentive to the collection agents w.e.f. 07.10.2013. The two documents i.e., the circular issued in the year 2002 and another circular issued on 26.04.2017 make it clear that the respondent-Bank had never challenged the concept of “fall back wages” and rather, continued making payment to the Deposit Collectors in terms of the said circulars. The argument of the learned counsel for the respondent-Bank that the payment of gratuity and other benefits to the appellant and the deposit

LPA-766-2025 (O&M) & other connected matters

agents was made out of generosity of the Bank is not tenable as had the Bank been aggrieved by the aforesaid action, it could have very well challenged the same before the appropriate Court. It is only after the appellant and other similarly placed employees had filed their claims before the Authorities under the 1972 Act and/or the challenge to the said orders came before this Court that the respondent-Bank is taking an objection that “the fall back wages” concept is not covered by the definition of wages under the 1972 Act.

21. In view of the above, while answering point No.(ii), we hold that the “fall back wages” falls under the definition of wages under the 1972 Act.

22. Resultantly, we find that there is no illegality or perversity in the impugned order passed by the learned Single Judge. Consequently, both sets of appeals are hereby dismissed.

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

(SUDHIR SINGH)
JUDGE

(ALOK JAIN)
JUDGE

May 28, 2025.
S.Sethi/Himanshu

Whether speaking/reasoned:- Yes
Whether Reportable:- Yes