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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6128 OF 1999

The General Manager,
Hotel Rama International,
Plot No.R-3, MIDC Industrial Area,
Chikalthana, Aurangabad.

...PETITIONER

-VERSUS-

1 Shri Narayan Wagoji Gajbhare,
C/o Bhartiya Mazdoor Sangh,
Supari Hanuman Road,
Aurangabad.

2 The Judge,
Labour Court, Aurangabad.

...RESPONDENTS

.....
Mr.VN.Dankh, Advocate for the Petitioner.
Mr.PL.Shahane, Advocate for the Respondent No.1.
.....

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 02nd July, 2015

Oral Judgment:

1 This petition was admitted by the order of this Court dated 20.07.2001. The Petitioner has challenged the judgment and award dated 27.04.1998 delivered by the Labour Court at Aurangabad in Reference (IDA) No.68/1987.

2 It is not in dispute that the Respondent No.1/ Employee was reinstated by the Petitioner pursuant to the impugned award and he continued in service till his superannuation having attained the age of retirement on 03.05.2002. The Petitioner had complied with the impugned award without prejudice to it's right in this petition. This matter was heard on 25.06.2015 and was part-heard.

3 Shri Dankh, learned Advocate for the Petitioner, submits on instructions that the gratuity to be paid to the Respondent, if calculated from the date of his joining on 19.01.1983 till his retirement on 03.05.2002, is some where around Rs.1,30,247/-. The said amount is yet unpaid. He, therefore, submits that the impugned award delivered by the Labour Court can be set aside by consent and the Petitioner would be willing to pay the outstanding gratuity amount to the Respondent. He further adds that in the event the Respondent is not agreeable, the Petitioner would be inclined to work out this petition since it considers the impugned award to be unsustainable and perverse.

4 Shri Shahane, learned Advocate for the Respondent/ Employee, submits, on instructions from the Respondent who is present in the Court, that the full and final settlement as stated by the Petitioner which is tendered across the bar to the Court, is acceptable to the

Respondent. The Respondent is willing to execute the receipt as is indicated by the Petitioner. The impugned award can be set aside by consent and the Respondent shall not raise any issue/ claim/ demand in relation to his employment and non employment before any court, authority or tribunal any time in future either in person or through any representative.

5 This statement is acceptable to the Petitioner.

6 In the light of the same, the document (four pages) tendered across the bar by Shri Dankh, which includes the receipt to be executed by the Respondent, is taken on record and marked as Exhibit "X" for identification.

7 Considering the above, this Writ Petition is partly allowed. The impugned judgment and award dated 27.04.1998 in Reference (IDA) No.68/1987 is quashed and set aside by consent. The Reference is, therefore, rejected.

8 The Petitioner shall pay gratuity amount to the Respondent No.1/ Employee as mentioned on page 3 of Exhibit X within a period of TWO WEEKS as is suggested by Shri Dankh. An account payee cheque be,

accordingly, issued and the Respondent No.1/ Employee shall execute a receipt which is at page 4 of Exhibit X.

9 Needless to state, the statement of the Respondent is recorded that he shall not raise any issue, claim or demand in relation to his employment and non employment against the Petitioner Company before any Court, Tribunal or Authority under any law either in person or through any representative.

10 Needless to state, the salary/ wages paid to the Respondent after his reinstatement till his retirement, are not to be recovered or repaid in view of the statement made by the Petitioner.

11 With the above directions, this Writ Petition is partly allowed. Rule is, accordingly, partly made absolute.

(RAVINDRA V. GHUGE, J.)