

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4848 OF 2007
WITH
CIVIL APPLICATION NO. 13011 OF 2015

Trilokchand Gajanan Varma
Age 50 years, Occ. Nil.
R/o at post Tq. Shirpur,
District Dhule, presently
confined at Open Prison,
Paithan, Dist. Aurangabad.

..Petitioner

Versus.

1. The State of Maharashtra
Through its Secretary,
Maharashtra state Road Transport
Corporation, Mantralaya, Mumbai.32

2. The Divisional Controller,
MSRTC Division, Dhule.

..Respondents

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Advocate for Applicant : Smt. Ansari A.N.
AGP for Respondent 1 : Shri Lokhande K.N.
Advocate for Respondent 2 : Shri Jain R.N. h/f Shri Bagul D.S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 16, 2015

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ORAL JUDGMENT :-

1. The petitioner has prayed for listing the Writ Petition for final hearing. Both the learned Advocates graciously stated that this Civil Application can be allowed and the Writ Petition can be taken up forthwith for final hearing.

2. In the light of the above, the Civil Application is allowed and this Writ Petition is heard finally.

3. This Court has admitted the petition on 4.7.2003.

4. The petitioner is praying for gratuity under the Payment of Gratuity Act, 1972("Act of 1972"). By communication dated 18.9.2006, the respondent Corporation has informed the petitioner that he would not be entitled for gratuity since he has been convicted for an offence under Sections 302 and 498-A of the Indian Penal Code.

5. Smt. Ansari submits that the petitioner has already undergone the sentence and he is now set at liberty.

6. The respondent is unable to state as to whether the respondent has passed an order of forfeiture of gratuity under the Act of 1972.

7. Notwithstanding the above, the petitioner will have to avail the remedy under the Act of 1972 by resorting to the procedure laid down in the Act. The respondent is at liberty to substantiate its claim that the gratuity is not payable as the petitioner has been convicted for an offence which amounts to an act of moral turpitude. The controlling authority under the Act is the Labour Court and the appellate authority is the Industrial Court.

8. In the light of the above, this petition is disposed off by granting liberty to the petitioner to resort to an appropriate remedy by following the

due procedure laid down in the Act of 1972. The time spent by the petitioner in this Court from 27.7.1997 till the passing of this order would be a good ground for condonation of delay if the statutory remedy is availed of within a period of six weeks from today.

9. Needless to state, the communication dated 18.9.2006 impugned in this petition shall not come in way of the petitioner in availing of the remedy. So also, the respondent would be at liberty to justify its action of refusing to pay gratuity for the reasons as set out in the communication dated 18.9.2006.

10. The Labour Court shall decide the issue on its own merits and in accordance with law.

11. Rule is, therefore, discharged.

(RAVINDRA V. GHUGE, J.)

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