

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

WRIT PETITION NO. 6958 OF 2014

ANKUSH KESHAVRAO DAVKAR
VERSUS
THE STATE OF MAHARASHTRA AD OTHERS

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Advocate for Petitioner : Smt. P.V. Langhe
AGP for Respondents: Mrs. S.A Dhumal
Advocate for Respondents : Mr. V.P.Golewar For R/5, Mr.
A.V.Khande h/f Mr. G.V.Sukale for R/6, Mr. R.S.Deshmukh for
R/7.

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: July 03, 2015

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PER COURT :-

1. We have heard Mrs. Langhe, learned counsel for the petitioner, Mr. Deshmukh for Respondent No.7 and Mr. Golewar, learned counsel for Respondent no.5 and learned AGP Mrs. Dhumal for Respondent State.

2. In the petition, directions are sought against the respondent No.4 to disburse the pensionary benefits of the petitioner without deducting any amount towards the dues of Respondents No.5 to 7. The learned counsel for the petitioner, placed reliance on the judgment of the Apex Court in case of **Union of India Vs. Jyoti Chit Fund and Finance, reported in 1976 (3) SCC 607** and judgment of the learned Single Judge of this court in case of **Dinkar Tippanna Mirajkar Vs. Bank of India and others Reported in 2002 (6) Bom.C.R.535**. According to the learned counsel of respondents No.5 to 7, the petitioner has given

unequivocal undertaking that amount be given from the retiral benefits. In light of that, now the petitioner cannot resile from the said undertaking.

3. We have considered the submissions canvassed by the learned counsel for the respective parties.

4. Learned AGP, on instructions, submits that Respondent Authorities states that an amount of Rs.1,04,573/- would be paid by the authority to the petitioner and proposal is already submitted on 30.6.2015. In light of that, we are not required to pass any orders. As far as payment of gratuity is concerned, keeping in mind dispute *inter se* between the parties i.e. petitioner and respondents No.1 to 7, we relegate the petitioner to the remedy under the payment of Gratuity Act with regard to the claim of Gratuity. As far as amount of difference due to 6th pay Commission is concerned, authorities may consider the same as said amount of difference being payable to 6th pay Commission is paltry.

5. Writ petition accordingly disposed of. No costs. Respondents No.5 to 7 to take recourse as is available in law.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-