

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

WRIT PETITION NO. 8911 OF 2011

Kachru Shankar Sahane died through
L.Rs. Radhika Kachru Sahane
and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 8906 OF 2011

Bhimrao Janrao Deshmukh .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 8912 OF 2011

Narsinha Narayan Kolhapure .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 8915 OF 2011

Shankar Mahadeo Ghule .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 8916 OF 2011

Gangadhar Dagadu Jagtap died through
L.Rs. Kamal Gangadhar Jagtap

and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 8932 OF 2011

Bhimaji Namdeo Dahatonde .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 8933 OF 2011

Vitthal Haribhau Kale died through

L.Rs. Radhika Kanchanmala

Vitthal Kale .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 9095 OF 2011

Eknath Pandurang Dongare .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri C. K. Shinde, Advocate for the Petitioners in all matters.

Shri K. G. Patil, Addl.G.P. for the Respondent No. 1 in all matters.

Shri V. D. Hon, Senior Advocate i/by Shri Ashwin V. Hon, Advocate for Respondent Nos. 2 and 3 in all matters.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 03RD AUGUST, 2015.

PER COURT :

. Mr. Shinde, the learned counsel for petitioners submits that, the petitioners had moved the Grievance Committee seeking benefit of leave encashment as per the Statute applicable to the Pune University then existing. The Grievance Committee allowed the complaints. The matters were referred to the Management Council. After hearing petitioners and respondents, Management Council accepted the recommendations of the Grievance Committee with necessary changes. The same are also writ large in the said resolution. According to the learned counsel the Law Officer of the University on wrong premise that the claims are rejected on limitation has prevented the respondents from payment of leave encashment. The learned counsel relies on the judgment of this Court in a case of **Khandesh College Education Society Vs. Arjun Hari Narkhede and others** delivered in **Writ Petition No. 2881 of 2007**. So also judgment of the Apex Court confirming the said judgment. The review filed against the said judgment is also dismissed.

2. Mr. Hon, the learned senior counsel submits that, the claim is belated one. It is after a long delay the claim was made before the Grievance Committee. The same is also not accepted by the Management Council. In fact, the petitioners ought to have approached the State Government. It is for the State to make

the payment in view of the judgment of the Apex Court in a case of **Khandesh College Education Society Vs. Arjun Hari Narkhede and others**. The learned senior counsel submits that, there would be disputed questions of facts.

3. The learned Assistant Government Pleader states that, the Apex Court in a subsequent case i. e. in a case of **State of Maharashtra Vs. Nowrosjee Wadia College and others** in **Civil Appeal Nos. 531-532 of 2013** vide judgment and order **dated 29th January 2013** has held that, the State is not liable to reimburse the said amount of leave encashment.

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

5. It appears that, the petitioners had approached the Grievance Committee U/Sec. 57 of the Maharashtra Universities Act seeking benefit of leave encashment. The same was recommended. The Management Council also considering the said aspect has accepted the said recommendations with necessary changes. However, it appears that, the Law Officer of the university on wrong premise reported that, said claims are rejected on the ground of limitation. The respondent/management has not assailed the said order passed by the Grievance Committee or the resolution of accepting

recommendations of the Grievance Committee.

6. The issue that the retired employees at the relevant time were entitled for earned leave and for encashment of unutilised earned leave is no longer res-integra in view of the judgment of this Court in a case of **Khandesh College Education Society Vs. Arjun Hari Narkhede and others** and confirmed by the Apex Court. The review filed against the said judgment of the Apex Court is also rejected.

7. Now it is also not matter of dispute that, the State is not liable to reimburse the amount of leave encashment in view of the judgment of the Apex Court in a case of **State of Maharashtra Vs. Nowrosjee Wadia College and others** referred supra.

8. It is not made clear as to how many days of leave is to the credit of petitioners. It is for the college to consider the number of days the petitioners would be entitled for the benefit of leave encashment considering the service books.

9. In the light of the above, we pass the following order.

10. The petitioners are entitled for the benefit of leave encashment from respondent Nos. 2 and 3. The petitioners shall

appear before respondent Nos. 2 and 3 for calculating the quantum of the amount payable by respondent Nos. 2 and 3 to petitioners. The respondent Nos. 2 and 3 shall consider the days of leave to the credit of petitioners for the purpose of payment of leave encashment. The calculations shall be made by respondent Nos. 2 and 3 within a period of four (4) months from today. After the calculations are made, the respondent Nos. 2 and 3 shall make the payment due towards the petitioners in respect of leave encashment within further period of six (6) months thereafter. The writ petitions accordingly are disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]

bsb/Aug. 15