

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION (L) NO.55 OF 2015
IN
WRIT PETITION NO.1541 OF 2008

Navinchandra Brijratnalal Shah	Petitioner
versus	
State of Maharashtra and others	Respondents

Mr.V.P.Patil for Petitioner.
Mr.J.S.Saluja, AGP for State.
Mr.V.S.Kapse for Respondent no.2.

CORAM : MOHIT S. SHAH, C.J. AND
A.K.MENON, J.

DATE : 16 July 2015

PC :

The petitioner's grievance is that inspite of common judgment dated 20 June 2014 of this Court in three Writ Petitions, the petitioner has not been paid the gratuity, although he had completed twelve years of service before resigning from the Judicial Service of the State. By the above judgment, this Court held that Rule 46(1) of the Pension Rules, 1981 has to be read down so as to entitle the employees of the State

Government to Gratuity in case they resign after completing five years of service. However, the Assistant Accounts Officer from the office of Accountant General (A & E)-I, Maharashtra has sent a communication dated 15 January 2015 to the District Judge, Ahmednagar stating as under :

"If the gratuity is to be granted as per order of Court, sanction in this matter from the Law and Judiciary Department, Mantralaya, Govt. of Maharashtra with the concurrence of the Finance Department may be obtained and forwarded to this office. Necessary action will be taken on receipt of necessary sanction."

2. The report of the Registrar (Legal & Research) of this Court on the administrative side indicates that upon receiving the above letter dated 15 January 2015, the Principal District Judge, Ahmednagar sought guidance from the Principal Secretary, Law & Judiciary Department, Government of Maharashtra vide letter dated 2 February 2015 and the said letter was forwarded through the registry of this Court to the Principal Secretary, Law & Judiciary, Government of Maharashtra on 24 February 2015. The response is awaited from the Government.

3. Learned counsel for the petitioner states that by the above common judgment dated 20 June 2014, this Court had allowed three writ petitions as under :

(i)	Writ Petition No.2668 of 2002	Shri J.K.Patil
(ii)	Writ Petition No.1541 of 2008	Petitioner in the present Contempt Petition
(iii)	Writ Petition No.2346 of 2011	Shri Amit A. Sheode

Learned counsel states that in case of Shri J.K.Patil, the State Government has already paid him the gratuity of Rs.2,06,660/- by demand draft dated 18 April 2015. Copies of letter dated 13 March 2015 of the Accounts Officer in the Office of Accountant General (A & E)-II, Nagpur addressed to the Principal District Judge, Beed; letter dated 22 April 2015 of the District Judge-I, Beed addressed to Shri J.K.Patil and photostat copy of demand draft dated 18 April 2015 for a sum of Rs.2,06,440/- are produced by the learned counsel for the petitioner. These documents are taken on record and marked "X" collectively for identification.

4. It is thus clear that the State Government has acquiesced in the above judgment dated 20 June 2014 of this Court and on the basis thereof, has paid the gratuity amount to one of the three parties. There could be no justification for not giving the present petitioner the benefit of the said judgment when the judgment is not challenged and in fact has been implemented in the case of Shri J.K.Patil.

5. Learned AGP states that Special Leave Petition has been filed yesterday i.e. on 15 July 2015, against the aforesaid judgment dated 20 June 2014. If that be so, the payment of gratuity to the present petitioner would be subject to any orders which may be passed in the Special Leave Petition, but the State Government having already paid the gratuity to Shri J.K.Patil in compliance with the common judgment dated 20 June 2014 is not required to be granted any further time.

6. The Accountant General (A & E)-I, Maharashtra, at Mumbai is, therefore, directed to pay the present petitioner gratuity in accordance with the directions given by this Court in the judgment dated 20 June 2014 in Writ Petition No.1541 of 2008 within four weeks from today without insisting on any further formalities. The payment will be subject to any orders which may be passed in the Special Leave Petition, stated to have been filed only yesterday.

7. As regards payment of earned leave, the office of the Principal District Judge is taking the necessary action. Hence no direction is required to be given at this stage.

8. The contempt petition is accordingly disposed of in the above terms.

(CHIEF JUSTICE)

(A.K.MENON, J.)

MST