

Tapi Parisar Vidya Mandal's
Dhanaji Nana Mahavidyalaya,
Faizpur, Dist. Jalgaon

Mr. Vijay Y. Patil, h/for Mr.A.T. Telhar, Advocate for
the petitioner,
Mr. M. B. Bharaswadkar, AGP for respondents 1&2-State.
Mr. Y.B. Bolkar, Advocate h/for Mr. A.B.Girase,
Advocate for respondent No.3,
Mrs. Chaitaliu Kutti, Advocate h/for Mr. P. N. Kutti,
Advocate for respondents 4 and 5.

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 25th October, 2016

JUDGMENT:

1. Heard the learned counsel for the parties.
2. Rule. Rule made returnable forthwith. With consent of parties, the petition is taken up for final disposal
3. Mr. Patil, the learned counsel for the petitioner submits that the petitioners are retired employees of respondent No.5. Amount of leave encashment is not paid to the petitioners. The management is required to pay the said amount. The learned counsel relies on the judgment of the Division Bench of this Court dated 20th August, 2014 in Writ Petition No. 625 of 2014 with connected matters. The learned counsel further submits that even the

Grievance Committee also recommended the claim of the petitioners.

4. Mrs. Kutti, the learned counsel for respondents 4 and 5 submits that the petition is bad on account of delay and latches. The learned counsel submits that the recommendation of the Grievance committee is not binding. The Grievance Committee did not hear the respondents 4 and 5 Management. The Management has not taken any decision on the same. The petition does not disclose for how many days, the petitioners actually worked and how much leave was surrendered. In absence of any pleadings, the relief claimed by the petitioners cannot be granted. Statute 424(C) cannot be expected to confer dual benefit.

5. Mr.Bolkar, the learned counsel for respondent University states that the University has rightly recommended the grant of benefit of leave encashment to the petitioners.

6. We heard learned AGP also.

7. The issue that the employees, at the relevant time, were entitled for the benefits of leave encashment and it is only the management which is

responsible to pay the same is no longer res integra. The same has been held by the Apex Court in case of State of Maharashtra & others Vs. Nowrosjee Wadia College and others in Civil Appeal Nos. 531-532 of 2013. We have also held so in Writ petition No. 625 of 2014 with connected writ petitions under order dated 20th August, 2014.

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

O R D E R

I. The Respondent Nos.4 and 5 shall determine the amount payable to the Petitioners with regard to the benefit of Encashment of Unutilized Earned Leave, expeditiously and preferably within a period of three (3) months from today.

II. Upon determination of the amount, the Respondent Nos.4 and 5 shall pay the said amount to the Petitioners within a period of six (6) months thereafter alongwith interest at the rate of 9% per annum simple interest from the date of their entitlement till the payment.

9. Rule is made absolute accordingly. There shall be no order as to costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC