

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

WRIT PETITION NO. 5689 OF 2016

Sunil s/o Manohar Ghodke,
Age : 55 years, Occupation : Service,
R/o Plot No.39, Renuka Nagar,
Kedgaon, Taluka and District
Ahmednagar.

...PETITIONER

-VERSUS-

Kinetic Engineering Ltd.,
Nagar-Daund Road,
Near Arangaon, Taluka and
District Ahmednagar.
Through its Chairman/ President.

...RESPONDENT

...
Advocate for Petitioner : Shri Markad Dattraya R.
Advocate for Respondent : Shri Bedre Vinayak Sudhakar.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 29th September, 2016

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 The learned Advocates for the Petitioner and the Respondent
submit that in identical set of facts involving an identically situated

employee and the same Respondent in **Writ Petition No.5575/2016** (*Ambadas s/o Pandurang Gurav/ Waghmare vs. Kinetic Engineering Ltd.*), this Court vide judgment dated 31.08.2016 has partly allowed the petition and converted the dismissal of the Petitioner into discharge. Necessary directions have been issued in paragraphs 16 and 17 of the said judgment dated. Similar directions can be issued in this matter as well.

3 The learned Advocate for the Petitioner submits that there is some confusion about suspension allowance having not been paid to the Petitioner in this case. Shri Bedre, learned Advocate for the Respondent, fairly submits, on instructions, that if any portion of the suspension allowance is not paid, that would also be paid within a period of twelve weeks from today.

4 In the light of the above, this Writ Petition is, therefore, partly allowed. The dismissal of the Petitioner dated 28.03.2012 shall stand converted into an order of discharge w.e.f. the date of this judgment. He will not be entitled for any back-wages. His gratuity shall be calculated from the date of his joining 01.03.1988 till 30.09.2016 on the basis of his last drawn gross wages on an average for the months of December, 2011, January, 2012 and February, 2012. He shall be entitled for retiral benefits, provident fund accumulation, pensionary benefits, if any, as may be

payable to him in accordance with law and the service conditions applicable to him. The impugned judgments of the Labour Court and the Industrial Court are, therefore, modified with these directions.

5 In the event, any portion of the suspension allowance of the Petitioner is not paid, the Respondent shall pay the same within a period of FOUR WEEKS from today, in addition to the above.

6 Rule is made partly absolute in the above terms.

kps

(RAVINDRA V. GHUGE, J.)