

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2669 OF 2015

(Deodas Dawanji Dhawle vs. State of Maharashtra and others)

Office Notes, Office Memoranda of

Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri A.D. Mohgaonkar, Advocate for petitioner.

Shri N.S. Rao, Assistant Government Pleader for
respondent nos.1 and 2.

Shri S.A. Mohta, Advocate for respondent nos.3
and 4.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : APRIL 5, 2016

Heard for sometime.

It is not in dispute that pension case of the petitioner has been sent and petitioner is receiving his due pension regularly. Similarly, his gratuity and provident fund are also released.

Adv. Mohta appearing for respondent nos.3 and 4 states that leave encashment amount of the petitioner has not been released as petitioner has not deposited amount of TDS deducted by him from salary of other staff with Income Tax Department and also has not furnished details thereof.

Adv. Mohgaonkar for petitioner disputes

this. According to him, false allegations are being levelled for the first time before this Court.

We do not wish to go into these allegations. Leave encashment amount does not enjoy immunity and hence, for legitimate reasons, it may be open to Management to withhold it. Whether they are legitimate reasons or not is a disputed question. The petitioner can file civil proceedings for recovery of that amount.

Needless to mention that in view of superannuation of petitioner with effect from 30/4/2015, suspension order and show cause notice cannot survive in view of judgment of this Court in **Shah Babu Education Society, Patur and another vs. Presiding Officer, School Tribunal, Amravati and Aurangabad Divisions, Aurangabad and another** (2006 (6) Mh.L.J. 547). They are accordingly quashed and set aside.

With liberty to petitioner to file civil proceedings, we dispose of the petition. No costs.

JUDGE

JUDGE

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