IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 506 OF 2016

Jayant s/o Balkrishna Kulkarni and others
-vs-
The General Manager, Sevatram Ramprasad Mills, Akola and others

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. S.A.Kalbande, counsel for the petitioners.
Mr.R. B. Puranik, counsel for the respondent Nos.1 to 3.

CORAM : SMT. VASANTI A. NAIK & MRS. SWAPNA JOSHI, JJ.

DATE : 13.06.2016.

By this writ petition, the petitioners seek a direction to the respondents to pay the amount towards balance sick leave to the petitioners for the service period during which they worked as clerks with interest at the rate of 9% per annum.

According to the petitioners, the petitioner Nos.1 to 3 were working as clerks in the respondent No.1-Mills from 1976, 1978 and 1974 respectively. It is the case of the petitioner Nos.1 to 3 that they were brought on NTC Grade from Mills Grade with effect from 01/01/1997, 01/10/1985 and 01/11/2004 respectively and before they were brought on NTC Grade, they were entitled to the benefit of encashment of balance sick leave. The petitioners based their claim on the circular of the National Textile Corporation Limited, dated 18/01/1979 wherein it is provided that the sick leave of the clerical staff could be encashed at the time of retirement/superannuation in accordance with the provisions of Standing Order No.14(1). It is the case of the petitioners that they had retired on attaining the age of superannuation, after 2010 and one of them was temporarily continued in service. It is stated that the representations made by the petitioners for encashment of the amount towards balance sick leave are not decided by the respondents, till date. It is stated that in almost similar set of facts, this Court has, by the order dated 27/08/2012 in Writ

Petition No.2749 of 2012, directed the respondent No.1 to pay the leave encashment benefits to the petitioners therein.

On hearing the learned counsel for the parties and on a perusal of the National Textile Corporation Limited's circular dated 18/01/1979, it appears that the relief sought by the petitioners needs to be granted. The petitioners were admittedly working as clerks in the respondent No.1-Mills till they were brought on NTC Grade on different dates, as mentioned herein above. The encashment of the balance sick leave that was not availed could have been made by the petitioners only at the time of retirement/superannuation. After the petitioners attained the age of superannuation recently, they applied to the respondent No.1 for payment of the benefits towards balance sick leave. The respondent No.1, however, paid no heed to the request of the petitioners. It is not disputed that the petitioners had not availed the balance sick leave during the relevant period as mentioned in their representation. In the circumstances of the case, since the petitioners are entitled to the encashment of balance sick leave, that is admissible to the clerical staff, at the time of retirement/superannuation, it would be necessary to direct the respondents to pay the amount towards balance sick leave.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The respondents are directed to pay the monetary benefits towards balance sick leave to the petitioners with interest at the rate of 6% per annum from the date of filing of the petition till the amount is actually paid. The order should be implemented by the respondents within a period of three months or else the respondents would be liable to pay interest at the rate of 15% per annum from the date of filing of the writ petition till the date of actual realization.

Order accordingly. No costs.

JUDGE **JUDGE**

KHUNTE