

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

WRIT PETITION NO. 6972 OF 2005

Shashikant s/o Ambadas Kulkarni
Age 55 years, Occu-Nil
R/o – Flat No.4, Raj Complex
Infront of Satyvishnu Hospital
N-12, CIDCO, Aurnagabad
Dist.Aurangabad.

.. PETITIONER

Versus

- 1] The State of Maharashtra
Through its Secretary,
Education Department,
Mantralaya, Mumbai
(Copy to be served through
Government Pleader, High
Court of Bombay Bench
at Aurnagabad.]
 - 2] The Chairman
Sanjivani Education Society,
Kopargaon, Dist.Ahmednagar
 - 3] The Secretary
Education Committee
Sanjivani Education Society
Kopargaon, Dist.Ahmednagar
 - 4] The Principal
Industrial Training Institution (ITI)
Run by Sanjivani Education Society,
Kopargaon, Dist.Ahmednagar
- .. RESPONDENTS

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**Advocate for Petitioner : Pramod Gaikwad h/f Ajay G Talhar
AGP for Respondents: M.M.Nerlikar for R.1.**

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Advocate for Respondents : A.V.Hon h/f V.D.Hon for R.2,3.

**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL,JJ.**

DATE : 23/08/2017

PER COURT :-

We have heard Mr.Gaikwad, learned counsel for the petitioner and Mr.A.V.Hon, learned counsel for the respondents 2 and 3.

2] According to the petitioner, the petitioner had joined as an Assistant Lecturer in Mechanical Engineering on 10/9/1984 with respondents 2 and 3 in respondent no.4 Institution. Lastly, the petitioner was promoted as Principal of the Industrial Training Institute (ITI) run by the society on 24/9/1990. On 13/7/2003, the petitioner made application for voluntary retirement from August 2003. The petitioner is claiming the difference in the salary as per the Fifth Pay Commission, the Gratuity and the Provident Fund dues, so also Leave Encashment.

3] According to the respondents, there was no provision for voluntary retirement. The respondents 2 to 4 never considered the application for voluntary retirement and asked the petitioner to join his duties. The petitioner remained absent. The petitioner was the

Principal of the ITI and was behaving in an irresponsible manner, the petitioner is not entitled for any amount. There are dues against petitioner which the petitioner is required to pay. The petitioner has also not complied with the formalities such as issuance of no dues certificate and clearance certificate even as directed by this Court under order dated 21/8/2006. The learned counsel further submits that respondent no.4 Institution is handed over to the Government in the year 2004.

4] The learned AGP states that the Government is not liable to pay the salary and dues of the staff, prior to the date of its acquisition.

5] The factum of the petitioner being the lecturer and thereafter being a Principal of ITI, run by respondents 2 and 3 is not disputed. It is stated that the petitioner had given a notice for voluntary retirement on 13/06/2003 and thereafter had not attended the institution. According to the respondents, the said application was not accepted, however, there is no order on record to show that the application tendered by the petitioner for voluntary retirement was not accepted.

6] As far as the amount of Provident Fund is concerned, the

petitioner has to approach the office of the Commissioner, Provident Fund, for claiming the said amount.

7] Even a person who resigns from service, is entitled for gratuity. The respondents 2 and 3 shall pay the amount of gratuity to the petitioner as would be due and payable as per the Rules. So also, the dues of the Fifth Pay Commission shall be considered and paid to the petitioner only for a period prior to three years of the filing of the Petition, so also shall consider the claim of Leave Encashment, as may be admissible. The same be done expeditiously and within four months from today. Rule accordingly made partly absolute in above terms. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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