

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

939 WRIT PETITION NO. 6479 OF 2016

NARSHING NARSAYYA MUDIRAJ
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. V.B. Dhage
AGP for Respondents 1 to 4 : Mr. A.R. Kale

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**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATED : March 9, 2017.

ORDER :

The petition is filed for giving direction to the respondents to release the amount of gratuity in favour of petitioner and also to see that other pensionary benefits, regular pension is granted. Both the sides are heard.

2. The learned A.G.P. drew the attention of this Court to Rule 130 of Maharashtra Civil Services (Pension) Rules, 1982. The learned A.G.P. submits that the gratuity amount cannot be paid as per the Rule 130 (1)(c) as one criminal case is pending against the petitioner, who was the employee of the Excise Department. The learned

A.G.P. submits that the department is paying provisional pension and that amount is equal to regular pension and so, he is not entitled to get regular pension and gratuity.

3. The learned counsel for petitioner submits that some observations are made by the Apex Court in **Civil Appeal No. 6770 of 2013 decided on 14.8.2013 [State of Jharkhand & Ors. Vs. Jitendra Kumar Srivastava & Anr.]**. This Court has carefully gone through the observations made by the Apex Court. The Rules made by the Bihar Government were involved and there was no specific Rule enabling the employer to stop the payment of gratuity or pensionary benefits. The submission was made for the Government that there were administrative instructions in that regard. The Apex Court held that administrative instructions cannot take place of the Rule and so, the Apex Court directed to release the benefits in favour of the said employee in that case.

4. The facts of the present matter are totally different and there are specific Rules made in aforesaid regard. Further, the criminal case is still pending which is filed for the offences punishable under sections 467, 468, 420, 34, 120-B of Indian Penal Code. There is allegation against the petitioner and other excise officers that they joined hands with one manufacturer and due to that, manufacture could use spirit for manufacturing of country liquor illegally. If the petitioner wants relief of getting gratuity amount, he can take steps for getting expeditious disposal of the criminal case. This Court holds that noting can be done in the present proceeding. The petition stands dismissed.

[SANGITRAO S. PATIL, J.] [T.V. NALAWADE, J.]

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