

pdp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1854 OF 2016

Prabhakar Manohar Naik and 3 ors.

.. Petitioners

Vs.

The State of Maharashtra and 3 ors.

.. Respondents

Mr. Ravindra Sankpal for petitioners.

Mr. Shailesh Pathak for respondent nos.1 (c) and 2(c).

Mr. P. M. Palshikar for respondent no.4.

CORAM: NARESH H. PATIL &
Z. A. HAQ, JJ.

AUGUST 10, 2017.

P.C.

1. It is submitted that under Payment of Gratuity (Amendment) Act, 2010, Section 4 of the Payment of Gratuity Act, 1972 (for short “the Act) was amended. The amended provisions of Section 4(3) read as under :-

“4. Payment of gratuity.- (1)

(2)

(3) The amount of gratuity payable to an employee shall not exceed ten lakh rupees.

2. Learned counsel for the petitioners submits that unilaterally the respondent – Mahatma Gandhi Memorial Hospital passed an order on 31/12/2015 restricting the gratuity benefit to the petitioners to a maximum limits of Rs.7 lakhs. This order was made applicable to the employees with effect from 7/8/2015.

3. Learned counsel appearing for the respondents submit that the petitioners have an alternate remedy under the Act and in case the petitioners approach the Controlling Authority, the said Authority would deal with the issue after hearing both the parties.

4. Learned counsel appearing for the petitioners, at this stage, submits that the petitioners would approach the Controlling Authority as designated under the provisions of Section 7 of the Act. The learned counsel submits that the impugned order is required to be quashed and set aside so that the petitioners would be in a position to approach the statutory forum.

5. We find substance in the submissions of the learned counsel appearing for the petitioners. The issue is required to be addressed by the

Controlling Authority under the Act. The petitioners are entitled to approach the Controlling Authority by filing appropriate application. In the facts, the impugned order is required to be quashed and set aside.

6. The impugned order under Reference No.MGM/EST/Gratuity/3154 dated 31/12/2015 passed by respondent no.4 (Exhibit - E) is quashed and set aside. The petitioners are granted liberty to approach the Controlling Authority by filing appropriate application. The Controlling Authority would deal with the issue on its own merits.

7. Petition is disposed of in the above terms.

(Z. A. HAQ,J.)

(NARESH H. PATIL,J.)