

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3890 OF 2017

Ashok Gangadhar Mate

.. **Petitioner**

Versus

The Provident Fund Commissioner
Nashik Region, Nashik and others

.. **Respondents**

Shri Nitin B. Suryawanshi, Advocate for Petitioner.

Shri K. B. Choudhari, Advocate for Respondent Nos. 1 and 2.

Shri V. J. Dixit, Senior Advocate i/b. Ankush N. Nagargoje,
Advocate for Respondent No. 3.

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 20th March, 2018

PER COURT :

1. The petitioner seeks direction against the respondent No. 1 to recover the provident fund contribution. He also seeks directions against respondent No. 3 to give admissible retiral benefit including revised salary with interest at the rate of 12% per annum.

2. As far as contribution to the provident fund is concerned

respondent No. 1 is competent authority to recover the unpaid provident fund from the employer in accordance with provisions of *The Employees' Provident Fund and Miscellaneous Provisions Act, 1952*. The orders passed by the respondent No. 1 are also executable. It has also powers to levy penalty, interest and damages against the defaulting employer. The respondent No. 1 is entitled to proceed with the same in accordance with law. As far as payment of gratuity is concerned, the petitioner has also approached the authority under *The Payment of Gratuity Act, 1972*. The petitioner may take up his grievance with regard to the amount of unpaid gratuity as claimed by the petitioner and denied by the respondent.

3. If the petitioner has any grievance with regard to the Memorandum of Understanding, the petitioner may raise it before the appropriate authority under *The Maharashtra State Cooperative Societies Act, 1960*. As far as, leave encashment is concerned, the respondents have paid an amount of Rs. 1,15,214/-. According to the respondent, 83,000/- has been retained for the period the petitioner was under termination.

According to the petitioner, the amount under leave encashment recoverable by the petitioner is more. The period between 2004 to 2009 is subject matter of consideration before the learned Single Judge in the writ petition. The said period for benefit of leave encashment shall be decided as per the Judgment of the learned Single Judge.

4. With regard to the payment all contentions of respective parties are kept open. The respondent No. 1 shall decide the dues with regard to provident fund expeditiously and preferably within four (4) months. The respective parties may seek clarification from the learned Single Judge with regard to the benefits to be received for the period 2004 to 2009.

5. The writ petition accordingly stands disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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