

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

WRIT PETITION NO. 11090 OF 2017

SURESH TUKARAM MORE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for the Petitioner : Shri Nagarsoge Sahebrao A.
AGP for Respondent 1 : Shri S.M.Ganachari.
Advocate for Respondent 2 : Shri S.P.Urgunde.

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**CORAM: PRASANNA B. VARALE
AND
RAVINDRA V. GHUGE, JJ.**

DATE :- 12th September, 2018

Per Court :-

- 1 Heard the learned Advocate for the Petitioner.
- 2 He invited our attention to the order passed by this Court dated 02.09.2014 in Writ Petition No.8247/2013. It was submitted before this Court that the Petitioner was placed under suspension on 02.04.2007 on the ground that one criminal case is pending against him and thereafter, he stood retired on 30.06.2007. The grievance of the Petitioner was with regard to the non payment of certain service benefits to him.
- 3 Considering the submissions advanced by the learned Advocate for the Petitioner, the Division Bench disposed of the said petition with the directions to the Respondents to release gratuity and

retiral benefits as admissible in law to the Petitioner, within a stipulated period of six months and then, the Petitioner was permitted to submit an application to the Respondents for the benefits accrued during the period April, 2007 to June, 2007. It was admitted before this Court that the Petitioner was already paid provisional pension and he would be entitled to receive the amount of gratuity and other retiral benefits. Respondent No.2 was directed to decide the application if such an application is submitted by the Petitioner.

4 Accordingly, the Petitioner submitted an application to Respondent No.2 on 16.02.2015. The Authority concerned by order dated 18.10.2016 released certain benefits. It is not in dispute that certain amount of gratuity and difference thereof to the tune of Rs.1,88,100/- is already paid to the Petitioner on 01.12.2014. The difference in pension amount as per the sixth pay commission for the period January, 2015 till December, 2015 to the tune of Rs.3747/- per month and Rs.7494/- per month from January, 2016 onwards is also paid to the Petitioner. However, the Authority expressed its inability to take a decision insofar as the period from April, 2007 to June, 2007 is concerned as this period was suspension period and the criminal case was pending.

5 Now, the decision of the Authority is on merits and the reason is also assigned for the inability to take a decision insofar as the said suspension period is concerned. Considering this position, we are of the

opinion that this writ petition can be disposed of with the direction to the learned Judicial Magistrate First Class before whom the criminal case bearing RCC No.1060/2007 is pending. This direction would meet the ends of justice and would cause no prejudice to the parties.

5 Accordingly, this Writ Petition is disposed of. The learned Judicial Magistrate First Class before whom RCC No.1060/2007 is pending, shall decide the said case, if it is not already decided till date, as expeditiously as possible and in any case within SIX MONTHS from today.

kps

(RAVINDRA V. GHUGE, J.)

(PRASANNA B. VARALE, J.)