

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

WRIT PETITION NO. 11489 OF 2016

Subhash Narayanrao Pophale

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. P.G. Rodge, Advocate for petitioner.

Mrs. P.V. Diggikar, A.G.P. for respondent – State.

Mr. V.S. Kadam, Advocate for respondent nos. 3 and 4.

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**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATED : 06th DECEMBER, 2018

ORDER :

The learned Counsel for the petitioner submits that the petitioner is qualified M.B.B.S. The petitioner was appointed in Respondent no.4 – college as Assistant Teacher with effect from 12th June, 1993 and since then he was in continuous service. The petitioner was regularly appointed on 14th May, 1994. The appointment of the petitioner was approved by the university. The learned Counsel for the petitioner submits that the petitioner is not paid salary as per 6th Pay Commission recommendations from June 2011 to July 2014. The petitioner was granted gratuity only in the year 2014. The learned Counsel submits that

the petitioner is entitled for the interest on gratuity amount so also the difference of salary as per 6th Pay Commission recommendations.

2. Mr. Kadam, the learned Counsel for Respondent no.4 submits that the petitioner was working with Chatrapati Shahu Maharaj Shikshan Sanstha's Dental College, Aurangabad from 01st February, 1992 to 23rd April, 1994, as such, he could not be said to have worked with Respondent no.4 – college from 1993. The learned Counsel submits that the petitioner has been paid gratuity amount. The petitioner has retired on attaining the age of superannuation (60 years) on 05th January, 2011. The petitioner, after retirement, was taken up in service on contractual basis on consolidated salary of Rs.35,000/- per month. The contractual appointment after the date of superannuation cannot be considered.

3. It is not disputed that the on attaining the age of superannuation (60 years) in January, 2011, the petitioner was appointed on contractual basis on consolidated salary from January 2011 and that the petitioner worked upto July 2014. In view of that, the petitioner's claim of salary as per 06th Pay Commission recommendations after his retirement cannot be allowed, as his appointment was on contractual basis. The petitioner accepts said appointment. The only question now

would be about late payment of gratuity amount. The respondents have come with a case that the petitioner has retired in January 2011. There is no cogent reason coming forward for late payment of gratuity amount to the petitioner upon his retirement in the year 2011. The gratuity amount is paid in 2014. Respondent no.4 would be liable to pay interest on the amount of gratuity to the petitioner for delayed payment.

4. Respondent no.4 shall pay interest @ 8% p.a. from 01st July, 2011 till the payment of amount of gratuity to the petitioner. The said interest shall be paid within a period of three months from today. Writ petition is accordingly allowed and disposed. No costs.

(R.G. AVACHAT, J.)

(S.V. GANGAPURWALA, J.)

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