

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

49 WRIT PETITION NO. 15342 OF 2017

SADASHIV MARUTIRAO KENDRE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr.Kadam Gajanan G.

AGP for Respondent Nos 1 to 5 : Mr. A.S.Shinde

Advocate for Respondents : Mr. Govt. Pleader For R No.
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Advocate for Respondent Nos. 6 And 7 : Mr. V.M. Vibhute

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CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.

DATE : JULY 19, 2018

O R D E R :

Mr. Kadam, learned counsel submits that this court under order dated 22.8.2016 in Writ Petition No. 2332 of 2016 had directed the respondents not to recover excess amount from the death-cum-retirement gratuity. Though the said order was passed, gratuity amount is not released that is why the writ petition is required to be filed. Respondents be directed to pay amount of death-cum retirement gratuity amount along with interest of 12% p.a.

2. The learned counsel for the respondents submits that petitioner during service tenure has received 2 to 6 lakhs excess. The amount of death-cum-retirement is paid to the petitioner and order to that effect is also passed on 13.7.2018. The petitioner would receive the said amount within 2 to 3 weeks.

3. This court, in writ petition no. 2332 of 2016 under order dated 22.8.2016 has directed respondents not to recover the amount from the petitioner from his death-cum-retirement gratuity, though excess payment was made to them because of wrong pay fixation.

4. We accept the statement that the order is already passed by the District Health Officer, Zilla Parishad, Aurangabad, directing payment of the retirement gratuity amount to the petitioner. The said amount shall be paid to the petitioners within 4 weeks from today. In case the amount is not paid within 4 weeks from today, then respondents will be liable to pay interest at the rate of 9 % per annum.

5. We have not saddled the interest on the respondents for not paying the amount for the period of two years as per the order dated 22.8.2016, because the petitioner had received excess amount on account of wrong pay fixation and respondents were subsequently directed under the orders of this court not to recover the said amount on equitable ground. However, if such amount is not paid within four weeks, then the respondents will have to pay interest at the rate of 9 % per annum.

6. Writ petition is disposed of. No costs.

[SUNIL K.KOTWAL, J.] [S.V.GANGAPURWALA, J.]

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