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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8823 OF 2016

Managing Director,
Maharashtra State Farming
Corporation ... Petitioner
V/s.
Ananda Sitaram Patil ... Respondents

Mr. S. R. Nargolkar i/by Mr. Swapnil S. Mohite, for the
Petitioner.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 19th NOVEMBER, 2018.

P.C. :

- 1] Heard learned counsel for the petitioner
- 2] As a very short point is involved in this petition, the petition is taken up for final hearing at the stage of admission.
- 3] This petition takes an exception to the order dated 2nd March, 2016, passed by the Appellate Authority under the Payment Gratuity Act; whereby the appeal preferred by the present petitioner has been dismissed.
- 4] The appeal preferred before the Appellate Authority, was challenging the order passed by the Controlling Authority under the Payment of Gratuity Act, 1972 in PG Application No.13 of 2014 dated 13.11.2014.

5] The only issue raised for consideration was whether the interim wages paid to the petitioner during the relevant period can be considered for the purpose of calculating the amount of gratuity.

6] Both the Controlling Authority and the Appellate Authority, have answered this point in the affirmative and in my considered opinion having regard to the definition of “wages” as given in Section 2(s) of the Payment of Gratuity Act, 1972, it has to be held that the said conclusion is unassailable. The definition of “wages” reads as follows :-

“2(s) “wages” means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance”.

7] Thus, as per this definition, the wages “paid” by way of increase in salary, whether interim or otherwise, have to be considered for the purpose of determination of gratuity. In this case, admittedly the petitioner was “paid” the interim wages. Hence amount of gratuity has to be calculated on the wages including interim increase .

8] In this respect, one can also consider the provisions of

section 14 of the Payment of Gratuity Act which gives supremacy and priority to the provisions of the said Act, over the provisions in other enactments. Section 14 of the Payment of Gratuity Act reads as follows :-

“14. Act to override other enactments, etc. The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act”.

9] The conjoint reading of both these provisions, makes it clear that the petitioner is entitled to get amount of gratuity determined on the basis of pay which he was actually receiving, including interim increase. The Controlling Authority and Appellate Authority, therefore, have rightly considered the legal provisions and accordingly passed the order. In the Writ Petition, no interference is warranted therein. Hence Writ Petition stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]