

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

**CIVIL APPLICATION NO. 1679 OF 2018
IN
WRIT PETITION NO. 5131 OF 2018**

Gangadhar S. Musmade .. Applicant
Versus
The State of Maharashtra and orsRespondents

Ms S.N. Saroj i/ b Mr. D.B. Khaire for the Applicant.
Mr. N.C. Walimbe, AGP for the State

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.
DATE : 08.08.2018.**

P.C.

1] Heard learned counsel for the parties.

2] The order dated 21.6.2018 was virtually an order made on the basis of consent of either parties. Therefore, unless the State consents, it is not possible to accept the request of the applicant for modification of the order dated 21.6.2018.

3] Ms Saroj, learned counsel for the applicant, however, submits that the applicant is due to retire by June 2019. She submits that normally the pension papers are forwarded six months prior to the date of retirement. She submits that until the entire amount of Rs.2,40,000/- is recovered from

the applicant, it is possible that the State does not forward the pension papers and there is consequently, some delay in receipt of pension.

4] Clause 1 (C) of the order dated 21.6.2018, records that the applicant refunds Rs. 2,40,000/- to the State. In order to benefit the applicant, liberty was granted to the applicant to refund the amount by way of 12 monthly installments. However, this does not mean that the applicant cannot pre-pay the amount of Rs.2,40,000/-. The applicant is therefore, granted liberty to pre-pay the amount of Rs.2,40,000/-.

5] However, the order dated 21.6.2018 cannot be modified as suggested by the applicant. This is really not occasion for us to decide whether the applicant is entitled to any half pay leave or not and to make directions that the amount be recovered through half pay leave commutation amount.

6] With the aforesaid clarification and liberty, this application is disposed of.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

Dinesh
Sadanand
Sherla

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