

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

WRIT PETITION NO.4842 OF 2019

THE DIVISIONAL CONTROLLER,
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION, LATUR
VERSUS
UMAKANT GANPATRAO ROTTE

WITH
CIVIL APPLICATION NO.11016 OF 2019
IN WP/4842/2019

UMAKANT GANPATRAO ROTTE
VERSUS
THE DIVISIONAL CONTROLLER MAHARASHTRA STATE ROAD
TRANSPORT CORPORATION LATUR

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Advocate for the Petitioner/ Corporation : Shri Anand D. Wange
Advocate for the Respondent/ Workman : Shri Gunale V.D.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 03rd October, 2019

Per Court:

1 On 30.09.2019, after hearing the learned advocates for the respective sides, I had passed the following order in Civil Application No.11016/2019 :-

- "1. *The applicant is present in the Court and instructs his Advocate to make a statement that he would not claim back wages. The MSRTC would calculate the gratuity as per the scale of pay payable to the applicant employee on the date of his retirement. The applicant would then withdraw that portion of the gratuity from this Court. The MSRTC would clear his P.F. form so as to enable him to approach the P.F. authorities for the*

- withdrawal of his P.F. Accumulations.*
2. *Stand over to 03/10/2019 for "passing orders".*

2 Today, the learned advocate for the petitioner/ corporation tenders two charts indicating the calculation of the gratuity amount with reference to the last drawn salary of the respondent/ workman on the date of his removal from service as in November, 2007 and also on the basis of the presumption that he has superannuated in August, 2015.

3 By the above reproduced order, since the respondent/ workman had waived the entire back wages, the corporation was called upon to treat him in service on notional basis till his month of superannuation and the gratuity amount be calculated accordingly. The petitioner/ corporation, in all fairness, has also calculated the interest on the gratuity amount for the period October, 2015 to September, 2019. The chart produced by the corporation is taken on record in the writ petition and marked as "X-1" for identification. The second portion of the gratuity calculation in the chart X-1, is marked in red pencil.

4 The learned advocate for the respondent/ workman agrees to accept the chart marked in red pencil, which is on the presumption that he continued till the month of his superannuation. He declares that the entire back wages are waived. The other retiral benefits may be extended by the corporation in the nature of lifetime bus pass, etc.. The corporation is agreeable.

5 In view of the above, this Writ Petition is partly allowed. The impugned judgment of the Industrial Court dated 10.10.2018 stands modified in view of the settlement between the parties. The amount of gratuity of Rs.5,46,105/-, by adjusting any loan amount taken by the workman, shall then be recalculated and be paid to the workman. It is clarified that the corporation has deposited an amount of Rs.4,93,380/- in this Court, which the respondent/ workman can withdraw and the remaining amount would be calculated and paid to the workman within six weeks from today.

6 It shall be noted that the petitioner/ corporation shall clear the provident fund withdrawal form of the respondent/ workman, within two months considering that the amount is preserved in the trust at Mumbai.

7 It shall be noted that the respondent/ workman shall not raise any claim of any nature whatsoever against the petitioner/ corporation before any court or authority.

8 The pending Civil Application does not survive and stands disposed off.