

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5996 OF 2018

(Tejram Bakaram Ukey vs. The Executive Engineer, O & M Division, MSEDCL, Pandharikawada,
District – Yavatmal & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : S.B. SHUKRE &
S.M. MODAK, JJ.
JANUARY 28, 2019.**

Heard Shri K.B. Dange, learned counsel for the petitioner and Shri S.V. Purohit, learned counsel for the respondents.

We have perused the written submission filed on behalf of the respondents, which have been taken on record today. This petition claims interest @ 10% per annum for the delayed payment of Rs.12,55,607/- towards encashment of leave at the time of retirement of the petitioner.

This claim is seriously disputed by the respondents by invoking clause (d) of the Revised Service Regulation No. 92(k), a copy of which has been filed along with written submissions of the respondents. According to the respondents, before retirement, the petitioner has faced departmental action and had also received punishment and that is the reason why the payment of amount of leave encashment was withheld for some time and that means there existed a valid reason for withholding payment of leave encashment amount.

The learned counsel for the petitioner submits

that this provision relied upon by the respondents is not applicable to the case of the petitioner and that is why the petitioner is denied of his constitutional right.

We do not wish to go into the question of deprivation of constitutional right, if any, as what lies at the base of this petition is a dispute involving several facts which are left to be proved like any other facts in view of strong denial of these averments by the respondents. In other words, this petition involves disputed questions of facts and, therefore, this petition would not be maintainable before this Court. We find it to be not maintainable and it deserves to be dismissed.

Writ Petition stands dismissed with liberty granted to the petitioner to resort to such remedies as may be available in law. No order as to costs.

JUDGE

JUDGE

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