

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 1040 OF 2019

IN

WRIT PETITION NO. 342 OF 2018

GADIGAPPA GANGAPPA HARIJAN AND 4
ORS.,

... Applicants

Versus

THE COMMANDING OFFICER.,

... Respondent

Adv. Shivraj Gaonkar, for the Applicants.

Mr. Mahesh Amonkar, Central Government Standing Counsel for the
Respondent.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 9th December, 2020.

Oral Order:

Against the order of the Gratuity Commissioner, the petitioner filed this Writ Petition under Article 227 of the Constitution of India. Simultaneously, it has also filed a Statutory appeal before the Deputy Chief Commissioner Central, Mumbai. In a sense, against one order, the petitioner inadvertently chose to pursue parallel remedies.

2. At any rate, pending this Writ Petition, the appellate authority disposed of the appeal through an order dated 3/11/2020. Therefore, the present Writ Petition has become infructuous. In this context, Shri M. Amonkar, the learned Central Government Standing Counsel, wants to amend the pleadings of this Writ petition and challenge the appellate order. I am afraid that course of action is impermissible. Instead, he can take out fresh proceedings against the Appellate order subject to all statutory and constitutional constraints, as to limitation and maintainability.

3. I, therefore, close this Writ Petition as having become infructuous. And it is open for the petitioner to impugn the appellate order subject to any statutory constraints.

4. As a result, the respondent is permitted to withdraw the amounts that have been lying with this Court.

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DAMA SESHADRI NAIDU, J.

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