

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

Writ Petition No.3673 of 2017

Shri Ruprao Namdeorao Kichambare

vs.

*State of Maharashtra, through the Director, Nagar Parishad Sanchalanalaya,
Mumbai & others*

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

Ms. A.S. Athalye, Advocate for the Petitioner.

Ms. H.N. Jaipurkar, A.G.P. for Respondent Nos.1, 3 & 4.

*Shri Abdul Subhan, Advocate h/f Shri Firdos Mirza, Advocate
for Respondent No.2.*

CORAM : RAVINDRA V. GHUGE AND
S.M. MODAK, JJ.

DATE : 5th FEBRUARY, 2020

01] Considering that the petitioner is a Class-IV employee and the issue raised is as regards non-payment of gratuity amount and leave encashment amount, we were not inclined to entertain this petition in view of the statutory remedy available for claiming the amount of gratuity under the Payment of Gratuity Act, 1972 and for the claim of leave encashment under the Industrial Disputes Act, 1947 or under Item 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

02] However, the learned Advocate appearing on behalf of the Municipal Council- respondent No.2, against whom the claim has been put forth, submits that the gratuity amount has already been paid and

concedes that the leave encashment of Rs.1,55,276/- will have to be paid and the Municipal Council is agreeable to pay the entire amount in six months.

03] We find that the petitioner has been dragged into litigation on account of purported paucity of funds by respondent No.2. As such, by way of token interest at the request of the petitioner, we are rounding of the leave encashment to an amount of Rs.1,60,000/-.

04] This petition is, therefore, allowed with the following directions :-

- (a) Respondent No.2-Municipal Council shall pay an amount of Rs.1,60,000/- to the petitioner in six equated monthly installments and the first installment is payable between 25th and 29th of February, 2020. The remaining five installments to be paid in the last week of the succeeding five consecutive months.
- (b) Non-compliance of the said order shall amount to disobedience of the order of this Court.

05] We make it clear that we have passed this order by ignoring the maintainability of this petition, in view of the consent of respondent No.2.

(S.M. Modak, J.)

(Ravindra V. Ghuge, J.)