

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

940 WRIT PETITION NO.1870 OF 2021

KANTABAI RAVINDRA RATANPARKHE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. S.M. Kulkarni
AGP for Respondents 1 & 2 : Mr. S.G. Karlekar
Advocate for Respondent 3 : Mr. Patil Jiwan J.

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**CORAM : S.V. GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : 01/09/2021.

PER COURT :

. Heard Mr. Kulkarni, learned advocate for the petitioners. The learned counsel submits that the husband of the writ petitioner died while in service on 27th of February 2019. The petitioner is entitled for family pension, gratuity and the leave encashment. The said amount is not paid to her instantly in accordance with the provisions of law. After filing of the present writ petition amount of more than Rs. four lakh has been received by the petitioner. The remaining amount is not paid. The petitioner is entitled for interest.

2. Mr. Patil, learned advocate for respondent No. 3 submits that it is not the fault of the respondent in making the

payments to the petitioner. The petitioner submitted the legal heirship certificate only at the end of August 2020. On or about 21st of October 2020 cheque for an amount of gratuity has been issued to the petitioners, but as there was difference in the names of daughters appearing in the bank account and the succession certificate, the cheque could not be honoured. According to the learned counsel, the pension is also regularly paid. The only amount of leave encashment of Rs.2,76,850/- has remained to be paid to the petitioner and now the difference of 6th and 7th Pay Commissions would be paid to the petitioner, the moment the funds are received.

3. It appears that the respondents are not solely made responsible for non payment of gratuity. The petitioner could produce the succession certificate only at the end of August 2020 and 2nd October 2020 the cheque of gratuity amount was also issued. But because of the mistake in the name of the daughters appearing in the bank account and the succession certificate, the cheque could not be encashed. Subsequently, the same is rectified. Part amount of gratuity is already paid. The difference of the 6th and 7th Pay Commissions will be given by installments as is given to the other retired employees.

4. In the light of above, the respondents shall make the payment of the amount outstanding to the petitioner No. 1-a as

the other petitioners 1-b to 1-e have given no objection to petitioner No. 1-a. The amount of leave encashment of Rs.2,76,850/- be paid with interest at the rate of 6% p.a. from 1st October 2020 till the date of payment. The other amounts be paid to the petitioners as are due and payable.

5. With the aforesaid observations, the writ petition is disposed of. No cost.

[R.N. LADDHA, J.]

[S.V. GANGAPURWALA, J.]

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