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

WRIT PETITION NO.4627 OF 2016

Kishore Shankarrao Khadatkar,
Aged about 56 years, occupation retired,
R/o 103 Konark Apartment,
Khare town, Dharampeth, Nagpur – 440 010. **Petitioner.**

:: VERSUS ::

1. The Chairman & Managing Director,
Bank of Maharashtra, Central Office, Lokmangal,
1501, Shivaji Nagar, Pune 411 005.

2. The General Manager, HRM,
Bank of Maharashtra, Central Office, Lokmangal,
1501, Shivaji Nagar, Pune 411 005.

3. The Dy.Gen.Manager,
Financial Management & Accounts, Bank of
Maharashtra, Central Office, Lokmangal, 1501, Shivaji
Nagar, Pune 411 005.

4. The Controlling Authority & the Asstt.Labour
Commissioner (Central) Nagpur.

5. The Appellate Authority under PGA 1972 &
Dy.Chief Labour Commissioner (Central) Nagpur. **Respondents.**

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Shri B.B.Meshram, Counsel for the petitioner.
Shri Shantanu Ghate, Counsel for respondent Nos.1 to 3.
Ms Anjali Joshi, Counsel for respondent Nos.4 & 5.

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.....2/-

CORAM : **VM.DESHPANDE, J.**
DATE : **FEBRUARY 08, 2021**

ORAL JUDGMENT

1. Heard learned counsel Shri B.B.Meshram for the petitioner, learned counsel Shri Shantanu Ghate for respondent Nos.1 to 3, and learned counsel Ms Anjali Joshi for respondent Nos.4 and 5. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned counsel for parties.

2. The petitioner was granted gratuity amount of Rs.10.00 lacs with 10% interest from 22.9.2011 by Controlling Authority on 7.12.2015. Respondent Nos.1 to 3 preferred an appeal before Appellate Authority vide PG Appeal No.N-48(5)/2016-PGA. The Appellate Authority vide order dated 11.4.2016 set aside the order passed by the Controlling Authority on a ground that it was not having jurisdiction. Thus, claim of gratuity in favour of the petitioner was upset. Feeling aggrieved thereby, the petitioner is before this Court.

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3. It is an admitted position that the petitioner is senior citizen. After order dated 7.12.2015 was passed, respondent Nos.1 to 3 preferred an appeal. According to learned counsel for the petitioner, ground for allowing the appeal filed by respondent Nos.1 to 3 is that the Controlling Authority was not having jurisdiction. However, he submits that no such plea was taken in memo of appeal nor it was argued at the time of oral submission.

4. Learned counsel for respondent Nos.1 to 3, fairly submitted that question of jurisdiction was not raised in memo of appeal nor it was argued at the time of oral submissions.

5. In view of the aforesaid, in my view, the Appellate Authority committed a serious mistake in allowing the appeal filed by respondent Nos.1 to 3 on the ground of jurisdiction inasmuch as opportunity was not given to the petitioner to meet question of jurisdiction.

6. In this view of the matter, I pass following order:

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ORDER

(1) The order dated 11.4.2016 passed by the Appellate Authority under the Payment of Gratuity Act and Dy.Chief Labour Commissioner, Nagpur in PG Appeal No.N-48(5)/2016-PGA is hereby quashed and set aside.

(2) The parties to this writ petition shall appear before the Appellate Authority on 8.3.2021.

(3) It shall open for respondent No.1 to 3 to file an application for amendment for raising point of jurisdiction and if such application is moved, the petitioner will be entitled to file a reply to the application for raising point of jurisdiction filed by respondent Nos.1 to 3.

(4) Since the petitioner is a senior citizen, the Appellate Authority shall decide the appeal as early as possible and preferably within a period of six months from 8.3.2021 after giving opportunity of hearing to the petitioner as well as to respondent Nos.1 to 3.

.....5/-

Judgment

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(5) Needless to mention that R&P immediately be remitted back to the Appellate Authority.

The writ petition is disposed of accordingly.

JUDGE

!! BRW !!

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