

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

WRIT PETITION NO.2794 OF 2020

The Registrar, Dr. Punjabrao Deshmukh Krushi Vidhyapeeth, Krushi Nagar, Akola and
another

Vs.

Madhukar S/o Shriram Sawale

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

Court's or Judge's orders

Mr. Abhay Sambre, Advocate for petitioners.
Ms. S. W. Deshpande, Advocate for respondent.

CORAM : AVINASH G. GHAROTE, J.

DATE : 26/10/2021

Ms. Deshpande, learned counsel for the respondent submits that the position is no longer *res integra*, but, is covered by the Judgment of the Hon'ble Apex Court in case of **Municipal Corporation of Delhi Vs. Dharam Prakash Sharma and another, (1998) 7 SCC 221** in which, it has been held that even if the provisions of the Central Civil Services (Pension) Rules, 1972 were adopted by the Municipal Corporation of Delhi which contains the provision both for payment of pension, as well as gratuity, the Payment of Gratuity Act being a special provision for payment of gratuity would also be applicable and an employee shall also be entitled to payment of under the Payment of Gratuity Act. She therefore, submits that the impugned order which is based upon **Dharam Prakash Sharma** (supra) ought not to be interfered with.

2. Mr. Sambre, learned counsel for the petitioners contends that in the instant case the Maharashtra Civil Service (Pension) Rules, 1982 have been adopted by the petitioners by the Government Resolution dated 30.10.2009 which also provides for gratuity to be paid to the employee, and therefore, the applicability of the Payment of Gratuity Act, 1972 stands excluded.

3. It is however, apparent that the Maharashtra Civil Service (Pension) Rules, 1982 do not contain any provision which excludes the provisions of the Payment of Gratuity Act, 1972, in view of which, the dictum as laid in **Dharam Prakash Sharam** (supra) would squarely be attracted.

4. In view of above, I do not find any infirmity in the impugned order passed by the Controlling Authority, which is based upon what has been held in **Dharam Prakash Sharm** (supra). The petition therefore, is without any merit and it is accordingly dismissed.

JUDGE