

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.277 OF 2022

PRABHAKAR DNYANOBAJI VAIDYA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.V.G.Salgare, Advocate for the petitioner.
Mr.S.P.Tiwari, AGP for respondent No.1.
Mr.U.S.Mote, Advocate for respondent Nos. 2 and 3.

(CORAM : RAVINDRA V. GHUGE AND
ANIL L. PANSARE, JJ.)

DATE : JUNE 24, 2022

PER COURT :

1. The petitioner has put forth prayer clause “B” and “C” as under :-

"B. By writ order or directions, the respondent Nos. 2 and 3 may kindly be directed to grant/pay gratuity to the petitioner from the date of his initial appointment/joining on the post of Primary Teacher under Zilla Parishad, Beed from 07.08.1973 to date of his dismissal on 11.09.2009 for continuous service period of 36 years as provided under the payment of Gratuity Act, 1972 within reasonable period in the interest of Justice.

C. Pending hearing and final disposal of this writ petition, respondent Nos. 2 and 3 may kindly be directed to deposit the amount of gratuity payable to the petitioner as per the provisions under Payment of Gratuity Act, 1972 from the date of his initial appointment / joining

from 07.08.1973 to date of his dismissal on 11.09.2009 for continuous service period of 36 years in this Hon'ble High Court forthwith in the interest of justice."

2. It is undisputed that the petitioner was dismissed from employment on 11.09.2009 on account of proved misconduct. The learned Advocate for the petitioner submits that the misconduct was on account of unauthorized absenteeism. He, therefore, contends that as no offence amounting to moral turpitude has been proved, his gratuity cannot be forfeited.

3. The learned Advocate for the Zilla Parishad submits that as there is no claim for gratuity under the Act, the employer has not passed any order. However, as the petitioner has been dismissed, if he raises a claim for gratuity, the employer would respond to the same on the basis of the service record of the petitioner.

4. In view of the above, this petition is disposed off.

5. If the petitioner approaches the competent authority for payment of gratuity under the Payment of Gratuity Act, 1972, he would be at

liberty to canvass his grounds for condonation of delay as he has been dismissed on 11.09.2009. The time spent by the petitioner in this Court from 03.01.2022 till the passing of this order would also be a ground for condonation of delay. All contentions on delay as well as the merits of the claim are kept open.

6. Since the petitioner is a senior citizen, the competent authority may consider deciding the proceedings, expeditiously.

(ANIL L. PANSARE, J.)

(RAVINDRA V. GHUGE, J.)