

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6263 OF 2022

**NARESHKUMAR SATYANARAYAN DHANIWALA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioner : Shri Jadhavar Aashish T.
AGP for the Respondents/ State : Shri S.G. Sangle
...

**CORAM : RAVINDRA V. GHUGE
&
ANIL L. PANSARE, JJ.**

DATE :- 22nd June, 2022

Per Court :-

1. Without approaching the competent authority under the Payment of Gratuity Act and without taking recourse to any remedy by which the quantification of leave encashment can be made, the petitioner places reliance upon the earlier order dated 12.08.2021 delivered in Writ Petition No.7211/2020 in which, we exclusively considered the issue of recovery of excess amount paid. This has nothing to do with the gratuity. Nevertheless, with the prohibition on recovery of excess amount from the petitioner, one area was put to rest.

2. The petitioner is now before us with prayer clause

B, which reads as under :-

“B) This Hon’ble High Court may kindly be pleased to issue writ of mandamus or any other appropriate writ, order or directions in the like nature, thereby directing the respondent authorities to release the amount of gratuity and leave encashment to the petitioner along with interest at the rate of 9% p.a. thereon from the date of retirement of the petitioner.”

3. He points out that his application to respondent No.4 seeking release of his gratuity dated 16.11.2021 is pending. He further submits that his leave encashment is also not calculated.

4. Considering that disputed questions in matters of quantification of unpaid dues, cannot be considered by this Court in it’s extraordinary jurisdiction, this Writ Petition is disposed off with the following directions :-

(a) The petitioner shall make an application to respondent No.4 to the extent of his leave encashment, within 10 days from today.

(b) Respondent No.4 shall consider the pending application of the petitioner dated 16.11.2021 praying for release for gratuity, so also, the proposed application for leave encashment, together.

(c) Respondent No.4 shall arrive at a conclusion on the

claim for gratuity and leave encashment, on or before 30.07.2022 and convey the decision to the petitioner with promptitude.

(d) In the event the gratuity amount and leave encashment is undisputed, the amount shall be paid to the petitioner within 30 days from the date of decision.

(e) In the event such amounts are disputed, the undisputed portion of the amounts would be released to the petitioner and thereafter, the petitioner would be at liberty to avail of the remedy as may be permissible in law for deciding his grievance.

kps

(ANIL L. PANSARE, J.)

(RAVINDRA V. GHUGE, J.)