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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2452 OF 2022

Mr. Gautam Sahebrao Sonawale .. Petitioner
Vs.
The State of Maharashtra and ors. .. Respondents

Mr. Abhijeet U. Pawar, for Petitioner.
Mrs. R.A. Salunkhe, AGP for Respondent No. 1 – State.

**CORAM : DIPANKAR DATTA, CJ. &
M. S. KARNIK, J.**

DATE : AUGUST 23, 2022

P.C. :

1. The petitioner was an employee of Mahatma Phule Backward Class Development Corporation Limited (hereafter 'the Corporation', for short). By a writing dated June 19, 2017 addressed to the Managing Director of the Corporation, the petitioner had complained of the frequent transfer orders that he was required to comply with. Thereafter, the petitioner made a request for transfer to his residential place (Mumbai/Thane) and if that was not possible, to treat the writing as a notice for voluntary retirement. The request of the petitioner for transfer was not accepted but his request for voluntary retirement was accepted. In terms of an order dated September 11, 2017,

the petitioner would retire from the service of the Corporation with effect from September 18, 2017. It is not in dispute that after such retirement, the petitioner is in receipt of pension payable as per law.

2. Had the petitioner not been retired based on his request, he would have attained the age of superannuation on March 31, 2022, i.e., more than four years after the jural relationship of employer-employee between the Corporation and the petitioner stood severed. This writ petition was instituted on February 21, 2022, alleging that the Managing Director had forced the petitioner to take voluntary retirement.

3. If indeed, what the petitioner alleges against the Managing Director is true and correct, the cause of action arose immediately after he stood retired from service on September 18, 2017. That was the stage for him to have invoked the writ jurisdiction of this Court for relief which, admittedly, he did not.

4. Over and above that, what stares at our face is the fact of receipt of pension by the petitioner for all these years between his retirement and the institution of this writ petition without demur. Having accepted the retirement together with retirement benefit, the conduct of the petitioner does not appear to be such that we would feel inclined to call for an affidavit from the Managing Director to deal with the petitioner's allegation that he was forced by

the Managing Director to take voluntary retirement.

5. This is not a fit and proper case for exercise of discretion. The writ petition, thus, stands dismissed.

6. No costs.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)