

Urmila Ingale

URMILA
PRAMOD
INGALE

Digitally signed
by URMILA
PRAMOD
INGALE
Date:
2022.06.29
20:07:06 +0530

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

WRIT PETITION NO. 6958 OF 2018

Mr. Bhaurao Vitthoba Tembhurne .. Petitioner
Vs.
The General Manager,
M/s. Hindustan Insecticides Ltd. and anr. .. Respondents

Mr. Milind A. Ingole a/w Ms. Ashwini Datar Ingole, for
Petitioner.
None for the respondents.

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

DATE : JUNE 28, 2022

P.C. :

1. The petitioner is a retired employee of M/s. Hindustan Insecticides Ltd. (hereafter "HIL", for short). Having retired from service on November 30, 2015, the petitioner expected retiral benefits to be released in his favour by the employer. However, as retiral benefits had not been released, this writ petition dated October 7, 2016 was instituted claiming, *inter alia*, mandamus to the respondents (General Manager and Managing Director of HIL) to take stern action against those who are responsible for not

releasing full retiral benefits to the petitioner as well as for payment of a sum of Rs. 2,58,904/- to the petitioner with interest.

2. A reply affidavit is on record. We have read the same. It is pleaded in paragraphs 4 and 7 thereof that whatever amounts were due and payable to the petitioner have been released. In particular, it has been pleaded in paragraph 4 to the effect that payment of sums of Rs.5,82,651/-, Rs.10,560/- and Rs.10,00,000/- under various heads have been released to the petitioner by issuing cheques on diverse dates. At paragraph 7, there is a specific statement that the petitioner has been paid all dues including retiral benefits.

3. Rejoinder affidavit is filed by the petitioner stating therein that the claim of the respondent is disputed. Although, the petitioner's prayer in the writ petition was for release of Rs.2,58,904/-, paragraph 8 of the rejoinder reveals that the petitioner claims that he is entitled to Rs.5,16,818/- as well as Rs.3,73,306/-. This, in fact, is a claim which is in excess of what was claimed in the writ petition itself.

4. It is clear from the affidavits that the writ petition raises disputed claims. There is no clear quantification of dues by the petitioner referring to his entitlements under the extant laws. The claim of the petitioner having been disputed by the respondents and the petitioner having

raised further claim for money in the rejoinder affidavit, we have to bear in mind the self-imposed restrictions propounded by the Supreme Court in several of its decisions that a writ Court ordinarily should not examine disputed questions of fact. In view of the same, we dispose of this writ petition granting liberty to the petitioner to pursue the channel of civil litigation for the purpose of amelioration of his grievance, if so advised, in accordance with law.

5. The period of pendency of this writ petition on the file of this Court shall be excluded for the purpose of limitation to approach the civil Court.

6. No costs.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)