

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 277 OF 2016
IN
WRIT PETITION NO. 1312 OF 2012**

Mohan Dhotre

...Petitioner

V/s.

The State of Maharashtra & Ors.

...Respondents

Mr. Vishal C. Ghosalkar with Mr. Vaibhav Jagdale for the petitioner.

Mr. H. B. Takke, AGP for respondent no. 1/State.

Mr. Shrishailya Deshmukh for respondent no. 3.

**CORAM: DIPANKAR DATTA, CJ &
V. G. BISHT, J.**

DATE: APRIL 26, 2022

P.C.:

1. By filing this notice of motion, the petitioner, a dismissed employee, seeks direction to the respondents to pay to him dues on account of leave encashment, gratuity and pension. Such notice of motion, according to Mr. Ghosalkar, learned advocate for the petitioner, has been taken out pursuant to the liberty granted by the Supreme Court by an order dated 5th July 2013 in Special Leave to Appeal (C) No. 16038 of 2013. He has relied on the decision of the Supreme Court in **Union of India & Ors. v/s. C. G. Ajay Babu & Anr.**, reported in (2018) 9 SCC 529, in support of his contention that despite termination of service, the petitioner is entitled to

gratuity.

2. It is not in dispute that the petitioner's service has been terminated on the ground of moral turpitude in the course of his employment. Unless the Court holds the termination to be invalid, there can be no question of making any direction for payment of gratuity.

3. In so far as the other dues are concerned, they must also await final decision on the writ petition.

4. Accordingly, we reject the notice of motion.

5. However, since the writ petition is pending on the file of this Court for almost a decade, we propose to give the same precedence in hearing. List the writ petition for final hearing on **8th July 2022 (fairly high on board)**.

(V. G. BISHT, J.)

(CHIEF JUSTICE)

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