

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

WRIT PETITION NO. 1041 OF 2022

Adil B. Dubash } **Petitioner**
versus
Air India Limited and Anr. } **Respondents**

Mr. Adil B. Dubash, petitioner in-person present.

Mr. V. M. Parkar for respondent no. 1.

Mr. Neel Helekar with Mr. Aniruddha A. Garge for
respondent no. 2 (UoI).

**CORAM: DIPANKAR DATTA, CJ &
M. G. SEWLIKAR, J.**

DATE: APRIL 12, 2022

P.C.:

1. The petitioner was an employee of the respondent no. 1. By an order dated 22nd December 1994, he was dismissed from service. The order of dismissal not having been challenged by the petitioner, has since attained finality. It is the claim of the petitioner that immediately after such order of dismissal, he was informed by certain officers of the respondent no.1 that he is not entitled to payment of any terminal benefit. However, more than 2 (two) decades after he was dismissed from service, the petitioner received a sum of Rs.1,02,887.00, inclusive of gratuity amount of Rs.62,134.00.

2. By presenting this writ petition, the petitioner seeks the following relief: -

"(a) For an appropriate writ, order or direction calling for the records of this Case No. 9996 dated 27th January 2004 and after going through the same quash and set aside the purported statement of settlement dues (being Exhibit "E" hereto);

(b) For an appropriate writ, order or direction directing the Respondent Corporation to verify/clarify with documented evidence to support their claim in column 'A' Payables; and Column 'B' Recoveries in case No. 9996 dated 27th January 2004;

(c) For an appropriate writ, order or direction to produce all necessary proof of process i.e. complied by the Respondent Corporation in order to support their delay of 22 years and 11 months to pay entitled benefits to the Petitioner not within the statutory period of 30 days constitutes breach of Section 7(2) & 7(3) of the Payment of Gratuity Act, 1972;

(d) For an appropriate writ, order and direction, directing the Respondent Corporation: the employer to pay simple statutory interest as per Government of India in its Notification dated 1st October 1987, under sub-Section (3A) of Section 7 of the Payment of Gratuity Act, 1972, has fixed the rate of interest at 10% per annum, in the case in hand for the period of 22 years and 11 months i.e. approximately Rs.1,42,908/- (Rupees One Lakh Forty Two Thousand Nine Hundred and Eight only) to be paid to the Petitioner."

3. Mr. V. M. Parkar, learned advocate representing the respondent no. 1, raises an objection to the maintainability of the writ petition on the ground that the respondent no. 1 is neither a State nor an authority against which a writ under Article 226 would lie.

4. We are not inclined to decide such objection at this stage, for, we are satisfied that the petitioner's remedy, in view of the nature of relief claimed, lies elsewhere.

5. For non-payment of gratuity on time or for interest on delayed payment of gratuity, a remedy is available to the petitioner under the Payment of Gratuity Act, 1972. Since the petitioner has not pursued such remedy, we grant him liberty to him to proceed in accordance with law for the purpose of claiming interest on delayed payment of gratuity.

6. Insofar as the other prayers, i.e., (a) and (b) are concerned, we are of the view that the same would require investigation on factual aspects as regards the quantum of financial entitlements of the petitioner, if at all. It shall, therefore, be proper to permit the petitioner to pursue the channel of civil litigation for appropriate relief in accordance with law. It is ordered accordingly.

7. The writ petition stands disposed of, with liberty as above. There shall be no order as to costs.

(M. G. SEWLIKAR, J.)

(CHIEF JUSTICE)

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