

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2870/2021

1. Narayan Rajaram Dhule,
aged 72 Yrs., Occ. Retired,
R/o Mahajanwadi, Wana Dongri,
Nagpur. ... Petitioner

- Versus -

1. State of Maharashtra,
through Secretary, Ministry of
Education and Employment,
Mantralaya, Mumbai 400 032.
2. The Joint Director,
Higher Education (Grants), Nagpur.
3. Rashtra Sant Tukdoji Maharaj
Nagpur University, Maharajbagh
Road, Civil Lines, Nagpur,
through its Registrar. ... Respondents

Mr. Dr. R. S. Sundaram, Advocate with Ms. U.R. Tanna, Advocate
for the petitioner.

Ms. N.P. Mehta, A.G.P. for respondent Nos.1 and 2.

Mr. Atul Pande, Advocate for respondent No.3.

**CORAM : SUNIL B. SHUKRE AND
SMT. M.S. JAWALKAR, JJ.**

DATE : 25 APRIL 2022

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent.

2. The petitioner is aggrieved by the decision of the University in not allowing him to encash 300 days earned leave which stands to the credit of the petitioner, fully at the time of his retirement.

3. The learned counsel for the petitioner submits that the University has allowed only 40 days of encashment of earned leave standing to the credit of the petitioner and this itself shows that the petitioner is otherwise entitled for availing of the benefit of encashment of whatever earned leave that stands to his

credit. He also submits that even otherwise, this Court in two of its judgments has held that once an employee is reinstated in service with all benefits, some of the benefits which are otherwise available to such an employee cannot be denied to him at the time of his retirement. This is the view taken by this Court in Writ Petition No.2632/2005 (Dr. Prakash Mistri V/s. Registrar, Nagpur University, Nagpur and another), decided on 4th August 2016 and Writ Petition No.7395 /2018 (Vitthal Damodhar Hedau V/s. State of Maharashtra and others), decided on 4th June 2019, and so states the learned counsel for the petitioner.

4. In this case, it is not in dispute that the petitioner has been reinstated in service with all consequential benefits and that means that at the time of his retirement, the petitioner would be entitled to get all the retiral benefits which include full encashment of the earned leave standing to the credit of the petitioner. This is also the view taken by this Court in Writ Petition No.7395/2018 which follows the view taken in Writ

Petition No.2632/2005, decided on 4th August 2016. Therefore, it was not permissible for the University to allow the petitioner to encash earned leave of 40 days only when it is the contention of the petitioner that 300 days earned leave stands to the credit of the petitioner and the petitioner is entitled to encash the same fully.

5. In view of the above, we direct the University i.e. respondent No.3 to examine the claim of the petitioner regarding standing of 300 days earned leave to the credit of the petitioner and if it is found to be true, we further direct respondent No.3 to grant to the petitioner leave encashment of whatever days of earned leave standing to the credit of the petitioner which has remained to be encashed after considering the encashment of 40 days of earned leave by the petitioner.

6. A decision in this regard may be taken at the earliest, preferably within eight weeks from the date of receipt of copy of the order.

7. Rule is made absolute in the above terms. No costs.

(SMT. M.S. JAWALKAR, J.) (SUNIL B. SHUKRE, J.)