

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 WRIT PETITION NO.2241 OF 2022

RAOSAHEB SATWA GANDHALEPAWAD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr.A.V. Indrale Patil, Advocate for the Petitioners.

Mr. S.K. Tambe, AGP for Respondent Nos.1 to 5.

Mr. L.H. Kawale h/f Mr. K.M. Suryawanshi, Advocate for Respondent Nos.7 and 8.

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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 10th APRIL, 2023.**

PER COURT :-

1. We have considered the submissions of the learned Advocates for the respective sides.

2. On 17th March, 2023, we had passed the following order :-

“1. Leave to add the APMC, Kandhar, through the present Administrator as respondent No.8. Addition be carried out forthwith.

2. Issue notice to Respondent No.8. The learned Advocate representing Respondent No.7 waives service of notice on behalf of Respondent No.8 and submits that there is no dispute that there are outstanding payments towards the retiral benefits of these Petitioners. Some amounts have recently disbursed. The remainder amounts can be paid in installments. A common short affidavit to resolve the issue would be filed in for respondent Nos. 6 to 8, on or before 31.03.2023.

3. List this petition for passing orders on 06.04.2023.”

3. We have perused the affidavit filed by Gurunath Nagorao Manaspure, Incharge Secretary, APMC Kandhar wherein, on the one hand, it is stated that the petitioners may claim their gratuity amount by approaching the Controlling Authority under the provisions of Payment of Gratuity Act, 1972. On the other hand, it is submitted in paragraph no.7 that whatever is the balance amount payable to the petitioner, the same would be paid as and when the funds are available.

4. We have perused Annexure A-1 to the petition and we find that the said charts issued by the APMC, indicate the admitted unpaid retiral benefits of these petitioners. These charts from page 17 to 24 indicate that the APMC has quantified the payment of retiral benefits of the petitioners including the gratuity amount. The petitioners are not disputing these charts and pray that the APMC be directed to clear the said payment.

5. Since the amounts in the charts to be paid to the petitioners are not disputed, there is no reason for this Court to direct the Petitioners to approach either the Controlling Authority under the Payment of Gratuity Act or the Industrial Court, for quantification of their retiral benefits. Since the amount of gratuity is not disputed by

the petitioners, there is no reason for further adjudication.

6. Issue is as regards the statement of the APMC that they would make such payment as and when the funds are made available. In our view, this liberty is not available to an employer. If the legal dues ought to be paid to the employees within a particular time frame, like, for example, the gratuity amount which becomes payable after 30 days from the severing of the employer-employee relationship, the employer has to pay the said amount and delayed payments are accompanied by admissible interest.

7. In view of the above, this petition is disposed off with the following directions :-

(a) The APMC shall clear off the dues of these petitioners in four equated monthly installments.

(b) The first installment would be due and payable on or before 10th May, 2023. Remaining three installments would be due on or before the 10th day of June, July and August, 2023.

(c) Needless to state, admissible interest amount shall be calculated by the APMC and shall be added to the unpaid dues while calculating the equated monthly installments.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)