

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 5798 OF 2020
WITH
CIVIL APPLICATION NO.16992 OF 2022
IN WP/5798/2020**

**PREMLATA ANANDKRISHNA MUDALIAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS**

.....
Advocate for Applicants/Petitioner : Mr. Abhishek C. Deshpande
AGP for Respondent Nos.1 to 3 – State : Mr. S. P. Tiwari
Advocate for Respondent No.4 : Mr. N. B. Tambade h/f. Mr. S. S. Thombre
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.**

DATED : 10th MARCH, 2023

PER COURT :

1. On 21.01.2020, we had passed the following order :-

“1. The issue as regards suppression of the undertaking dated 20.02.2020 executed by the petitioner/applicant, would be considered as we hear the petition on a subsequent date.

2. The payment of gratuity has been kept in abeyance in view of the issue of recovery of a portion of the pay scale after the University noticed in 2010 that the amount needs to be recovered and which was stayed by the Vice Chancellor. The University orally conveyed to us that the Vice Chancellor has ruled that the recovery should not be made. The learned Advocate for the University submits on instructions that the petitioner/ applicant

was never appointed on a reserved category post. With this statement, the entire complexion of the case of the petitioner is changed.

3. We are, therefore, of the view that the University needs to file an affidavit in reply in support of these contentions. The affidavit would be filed by an Officer not below the rank of Pro Vice Chancellor. Let such affidavit be filed on 04.02.2023.

4. List this petition on 13.02.2023 in the "Urgent Orders Category"

2. On 24.02.2023, we had passed the following order :-

“1. We have perused the affidavit-in-reply filed by Professor Shri. S. T. Shirsath, Pro-Vice Chancellor of the Babasaheb Ambedkar Marathwada University, Aurangabad, dated 03/02/2023 and especially paragraph Nos.13 and 18.

2. The learned Advocate for the petitioner submits that, the validity proposal of the petitioner is still pending with the Competent Committee. Insofar as Gratuity is concerned, she may not claim interest on the Gratuity.

3. We would expect the petitioner to file an affidavit to make the above statement on oath. Let the affidavit be filed by 03/03/2023.

4. List this application for ‘passing orders’ on 10/03/2023.”

3. The Petitioner has tendered an affidavit at page Nos. 14 to 16 dated 01.03.2023. It is stated that as the University is not proceeding to recover any amount from her, she would also not claim any interest on the unpaid amount of gratuity from the date of her retirement and prays that the said amount be released at the earliest.

4. In view of the above, as the action of recovery of amount having been withdrawn by the University and in the light of the Petitioner making a statement on affidavit that she would not claim any interest on the gratuity amount, this Petition is disposed off. The impugned order dated 18.03.2020 (wrongly typed as 14.08.2019 in prayer clause 'C'), is quashed and set aside. The gratuity amount, without interest, shall be released by Respondent No.3, within a period of 60 days from today.

5. The pending Civil Application would not survive and stands disposed off.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)