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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5753 OF 2023

Shashikant Vithal Humane .. Petitioner
Versus
The State of Maharashtra & Anr. .. Respondents

WITH

WRIT PETITION NO. 5755 OF 2023

Ramesh Rambhau Kalanke .. Petitioner
Versus
State of Maharashtra & Ors. .. Respondents

Ms. Anita Gavkar for petitioners.

Mr. B. V. Samant, AGP for State.

**CORAM: S. V. GANGAPURWALA, ACTING CJ. &
SANDEEP V. MARNE, J.**

DATE: APRIL 26, 2023

P.C.:

- 1.** The petitioners assail the order of the Tribunal. The petitioners had approached the Tribunal for the relief that the period of suspension be treated as duty period, to grant all service benefits as per Fifth Pay Commission so also sought retirement dues, such as leave salary, gratuity, pension and other pensionary benefits with interest.
- 2.** We have heard the learned advocate for the petitioners and the learned AGP.
- 3.** The Tribunal observed the petitioners can pursue their claim for leave salary. The petitioners may also pursue their claim in respect of Provident Fund, if the same is not paid.

4. It is not disputed that before the petitioners retired from service, criminal prosecution was pending against the petitioners under the provisions of the Prevention of Corruption Act. Though "A" Summary report was filed by the Anti-Corruption Bureau, the Sessions Court rejected the said application. The petitioners approached this Court. This Court stayed the criminal proceedings. The writ petition is still pending.

5. Naturally, when the criminal proceedings are still pending against the petitioners, the petitioners will certainly now not be entitled for the pension. It is for the petitioners to get the criminal prosecution decided at the earliest. Depending upon the judgment that would be delivered by the Sessions Court or in the writ petition filed by the petitioners against the order of the Sessions Court, thereby not accepting the "A" Summary report, the petitioners may take further steps.

6. With the aforesaid observations, writ petitions are disposed of. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)