

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11745 OF 2022**

Sudhir Ramchandra Desai	...	Petitioner
versus		
Shivaji Sahakari Bank Ltd.	...	Respondent

Mr. Deepak A. Lad for Petitioner.
None for Respondent.

CORAM: N.J.JAMADAR, J.

DATE : 16 MARCH 2023

P.C.

1. Heard the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an order dated 18 June 2022 passed by the Appellate Authority under the Payment of Gratuity Act, 1971, whereby the Appellate Authority was persuaded to allow the Appeal and set aside the order dated 2 January 2019 passed by the Controlling Authority directing the Opponent/Respondent herein to pay to the Petitioner the gratuity amount of Rs4,28,400/- within a period of two months thereof along with interest @ 8% p.a from the date the gratuity became due till realization.
3. The Appellate Authority was persuaded to allow the Appeal on the ground that a statement was made on behalf of the Opponent/Respondent that the challenge to the termination of the Petitioner was pending before the Industrial Court, and the parties had not apprised the Controlling Authority about the effect of the said

proceeding upon the entitlement of the Petitioner for gratuity.

4. The learned Counsel for the Petitioner submits that, in fact, the Complaint (ULP) No.89 of 2012 was dismissed by the Industrial Court No.1, Kolhapur, by a judgment and Order dated 17 April 2018. However, the said fact could not be brought to the notice of the Appellate Authority.

5. Since the Appellate Authority has allowed the Appeal solely on the ground that there was no clarity as to the outcome of the proceedings in which the termination was challenged by the Petitioner-employee and, in fact, the said challenge was answered against the Petitioner before passing the impugned order, there is no other go but to direct the Appellate Authority to decide the Appeal afresh.

6. Hence, the following order :

ORDER

(i) The impugned order dated 18 June 2022 passed by the Appellate Authority stands quashed and set aside.

(ii) Appeal (PGA) No.1 of 2019 stands restored to the file of the Appellate Authority for afresh decision in accordance with law.

(iii) The Appellate Authority shall decide the said Appeal after providing an effective opportunity of hearing to the parties and on its own merits.

(iv) The Writ Petition stands disposed.

(N.J.JAMADAR, J.)