

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No. 8585 of 2022

Dilip s/o Balwantrao Dalal

Vs.

Maharashtra State Road Transport Corporation, Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr.A.H.Jamal, counsel for the Petitioner.

CORAM : ANIL S. KILOR, J.

DATED : 09.01.2023.

Heard the learned counsel for the petitioner.

2. By the impugned judgment and order dated 15/11/2021 passed in Appeal (PGA) No.60 of 2019, the Appellate Court under the Payment of Gratuity Act and the Member, Industrial Court No.4, Nagpur, allowed the appeal and thereby set aside the judgment and order dated 20/02/2019, passed by the Controlling Authority under the Payment of Gratuity Act, 1972 i.e. Labour Court No.3, Nagpur and remanded the matter back to the Controlling Authority for fresh consideration and ascertaining the actual last pay entitled to the reverted

post and accordingly on the basis of it, compute the gratuity as payable to the applicant.

3. The learned counsel for the petitioner submits that as per the judgment of the Hon'ble Supreme Court and the office memorandum dated 08/04/2019, issued in pursuance to the same, was not considered by the learned Appellate Authority.

4. However on a specific query put to the learned counsel for the petitioner whether this office memorandum, on which the petitioner is relying upon, was placed before the learned Appellate Authority, he fairly states that it was not placed before the learned Appellate Authority.

5. In the circumstances, it cannot be said that the learned Appellate Authority has committed any error in not considering the office memorandum, which was never placed before it.

6. After going through the office memorandum and the judgment of the Hon'ble Supreme Court of India, in the case of **Gajanan Marotrao Nimje and others v. The Reserve Bank of India and others**, decided on 11/11/2018, I am of the opinion that the Controlling Authority can consider all

these aspects as the learned Appellate Authority has remanded the matter back to the Controlling Authority to decide the same afresh.

7. In that view of the matter, as no prejudice will be caused to the petitioner because of remand of the matter to the Controlling Authority to decide the same afresh, I do not find any perversity and illegality in the impugned judgment and order. Accordingly, the writ petition is dismissed. No order as to costs.

[ANIL S. KILOR, J.]