



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1289 OF 2020

Laxman Mangusing Chavan

VERSUS

The State Of Maharashtra And Others

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Mr. K. M. Nagarkar, Advocate for the Petitioner

Mr. V. M. Kagne, AGP for Respondent No. 1

Mr. A. G. Vasmatkar, Advocate for Respondent Nos. 2 to 4 and 6

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CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ

DATE : MARCH 27, 2024

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J)

1. **Rule.** Rule made returnable forthwith and heard finally by the consent of parties.

2. The Petitioner has put forthwith prayer clauses 'B', 'C' and 'D' as under:

B. To quash and set aside the impugned gratuity payment order dated 28.1.2019 issued by Deputy Chief Accounts Officer (I), Maharashtra Jivan Pradhikaran, CIDCO Bhawan, Navi Mumbai to the extent of recover the amount of Rs. 1,00,000/- in view of the facts and circumstances mentioned in the writ petition and in the interest of justice.

C. To pay 18% interest against delayed payment against the following heads as (1) Pension, (2) General Provident Fund 90%, (3) General Provident Fund 10%, (4) Gut Vima

Yojana, (5) Leave encashment, (6) Gratuity, (7) Commutation 40%. (8) Dearness Allowance in view of the facts and circumstances mentioned in the writ petition and in the interest of justice.

D. To direct respondent Nos. 1 & 2 to inquire into the delayed payment of pensionary benefits of the petitioner and to take appropriate action against the concerned persons who are responsible for delayed payment of the petitioner and impose cost of Rs. 1,00,000/- to the concerned persons and said cost to pay to the petitioner from the pockets of concerned persons in the interest of justice.

3. The Petitioner has specifically averred in the pleadings that he is seeking interest on the unpaid amounts.

4. The Petitioner was appointed as an Assistant Stores Keeper on 12.11.1979 and after completing 38 years and 8 months, he superannuated on 30.06.2018. By an order dated 28.01.2019 passed by the Respondent – Maharashtra Jeevan Pradhikaran, the amount of gratuity was computed at Rs. 3,35,105/-. An amount of Rs. 1,00,000/-, admittedly, has been recovered from the gratuity amount on the ground that the Petitioner was inadvertently paid excess amount under the head of

'time bound promotion' benefit. It is conceded that no undertaking was taken from the Petitioner. It is also uncontroverted that the recovery order has been issued after the retirement of the Petitioner.

5. In view of the above, the law laid down by the Hon'ble Supreme Court in State of Punjab & Ors Vs. Rafiq Masih (White Washer), 2015 (4) SCC 334 and Syed Abdul Qadir vs. State of Bihar and others, 2009 (3) SCC 475, the Petitioner's case is eligible for grant of refund of the amount.

6. In view of the above, this Writ Petition is allowed.

7. In so far as the delay caused in making payments, the employer Maharashtra Jeevan Pradhikaran shall calculate the exact delay caused under the various heads and shall be duty bound to calculate the statutory interest component to be paid to the Petitioner, as a part of the arrears. Let such arrears be paid to the Petitioner within a period of 60 days from today.

8. Rule is made absolute in the above terms. No order as to costs.

(R. M. JOSHI, J)
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(RAVINDRA V. GHUGE, J)