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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

48 WRIT PETITION NO. 9835 OF 2024

SURESH DATTATRAYA CHUTAKE

VERSUS

THE STATE OF MAHARASHTRA THROUGH PRINCIPAL SECRETARY
AND OTHERS

Mr.M.G.Kedar h/f Mr.K.M.Nagarkar, Advocate for the Petitioner.
Ms.Neha Kamble, AGP for the Respondent/State.
Mr.Sambhaji Surwase, Advocate for the Respondent/M.J.P

(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)

DATE : SEPTEMBER 12, 2024

PER COURT :

1. A dispute between the Petitioner (a Driver) and the Maharashtra Jeevan Pradhikaran, is raised in view of the gratuity payment order passed by the M.J.P, dated 03.02.2022. This Petition has been filed on 27.08.2024.

2. Heard the learned Advocate Mr.Nagarkar on behalf of the Petitioner.

3. In the light of the judgment delivered by the Hon'ble

Supreme Court in **City and Industrial Development Corporation Vs. Dosu Aardeshir Bhiwandiwalla and Others** [AIR 2009 SC 571], disputed issues cannot be gone into in a Writ Petition.

4. The Payment of Gratuity Act, 1972 is a self contained Code, which prescribes the manner of raising a demand for gratuity. For the purpose of adjudication, 2 statutory authorities are provided in the form of the 'Controlling Authority' (Labour Court) and the 'Appellate Authority' (Industrial Court). Thereafter, further remedy is to approach the learned Single Judge Bench seeking a Writ of Certiorari under Article 227 r/w Article 226 of the Constitution of India.

5. Considering the dispute raised in this Petition, with regard to a particular component having been paid and a particular component having been withheld, the Petitioner is at liberty to approach the Controlling Authority by filing an appropriate proceeding. The issue of delay would be considered by the Controlling Authority. The time spent by the Petitioner in filing this Petition till the disposal today, shall be considered as a good ground. All contentions of the Petitioner are kept open. If eventually, the Petitioner is held entitled for the unpaid

amount of gratuity, the Controlling Authority would be at liberty to grant interest per annum on the said amount as well. The disposal of this Petition would not be come in the way of the Petitioner.

6. In so far as the claim of the Petitioner for commutation of pension after retiring on 31.08.2020, the said issue cannot be dealt with in view of the Rules applicable since the request for commutation of pension has to be made in Form A under Rule 13(1) of the Maharashtra Civil Services (Commutation of Pension) Rules, 1984, within one year of the date of retirement. Once Form A is filled in, it has to be delivered to the Head Office. It is an admitted position that the Petitioner retired on 31.08.2020 and did not tender an application for commutation of pension.

7. In view of the above, **this Writ Petition is disposed off.**

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)