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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

902 CIVIL APPLICATION NO. 14404 OF 2023
IN WP/362/2003

DASHRATH MHATARJI HIWRALE, DIED, THR. LRS.
SHOBHABAI GAUTAM HIWRALE AND OTHERS
VERSUS
STATE OF MAHARASHTRA AND ANOTHER

....

Mr Avishkar S. Shelke, Advocate for Applicants
Mr P. K. Lakhotiya, A.G.P. for Respondents/State

CORAM : RAVINDRA V. GHUGE, J.

DATE : 2nd February, 2024

PER COURT:

1. The original employee, who had succeeded before the Labour Court vide the Judgment and Award dated 30/09/2002, delivered in Reference (IDA) No.209/1989, passed away during the pendency of Writ Petition No.362/2003. By the Judgment dated 08/05/2019, delivered in the Special Drive in Vacation, the Single Judge Bench had ordered under paragraph 9 as under :-

“9. In view of the above, an equitable order can be passed. This petition is, therefore, partly allowed with the following directions :-

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[a] If the respondent has been reinstated in service by the petitioners pursuant to the judgment of the Labour Court, he would be entitled for notional continuity of service from 01/01/1984 till his future date of superannuation for the purposes of calculating his qualifying service for pensionary benefits. He would not be entitled for back wages from 01/04/1988 till the date of his reinstatement by applying the principle of "no work-no wages". He would also not be entitled for gratuity for the period 01/04/1988 till the date of his reinstatement and would be entitled for gratuity only for the period 01/01/1984 to 01/04/1988 and from the date of his reinstatement till the future date of his superannuation.

[b] In view of the above contingency, the petitioners would forward the proposal of the respondent alongwith similarly situated daily rated watchmen, for regularization to the appropriate authorities. Such proposal shall be forwarded within 2 months from today and the same shall be considered and decided within 4 months from the date of receipt of such proposal. Needless to state, these proposals would be considered by the petitioners in the light of the 2 Government Resolutions dated 31/01/1996 and 16/10/2012.

[c] In case this respondent has not been reinstated in service pursuant to the impugned award, it would mean that he has put in 4 years and 3 months in employment from 01/01/1984 to 01/04/1988. He would be out of employment for 31 years till today. Therefore, the Law laid down by the Hon'ble Apex Court in the above referred 4 cases would be applicable to the case of the respondent. In this situation, the petitioners shall deposit an amount of Rs.2,15,000/- In this Court towards quantified compensation, on or before 31/07/2019. failing which, the said amount would carry

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interest 6% p.a. from the date of the award till the amount is deposited and in which case, the interest component shall be paid from the salary account of the Divisional Forest Officer and the said interest amount would not be paid from the State exchequer.

[d] In the above contingency, after the amount is deposited, the respondent would be at liberty to withdraw the said amount within 90 days, from the date of depositing of the amount, by tendering an application with a recent photograph and identity proof, duly identified by the learned Advocate. If the amount is not withdrawn within 90 days, the same shall stand donated for the treatment of poor patients to the Ghati Hospital and the Nazir Department shall forward the said amount to the said dispensary.”

2. The legal heirs of the Applicant are before this Court in this Application. They were also on record when the Writ Petition was decided. By this Application, prayer clauses (B) and (C) have been put forth, as under :-

“B. The Judgment and Order dated 08.05.2019 in Writ Petition No. 362 of 2003 and more particularly paragraph No. 9 (d) may suitably be modified in so far as direction to donate the amount of compensation for the treatment of poor patients to the GHATI Hospital and the Nazir Department shall forward the said amount to the said dispensary.

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C. The applicants be permitted to withdraw Rs. 2,15,000/- with accrued interest deposited as per the Judgment and Order dated 08.05.2019 passed in Writ Petition No. 362 of 2003 and the same be disbursed to Applicant No 1 for and on behalf of Applicants No. 1 to 7.”

3. The Applicants have stated in paragraph No.8 in this Civil application that, all of them consent for disbursement of the entire amount, if lying in this Court, to the widow, namely, Shobhabai Gautam Hiwrale, and that Applicant Nos.2 to 7 have no objection for granting the entire amount to Shobhabai Gautam Hiwrale.

4. The Single Judge Bench had directed that, if the amount is not withdrawn within 90 days, the same would stand donated to the Government Medical College and Hospital (GHATI), Aurangabad. The Nazir Department of this Court was directed to forward the amount to the Dispensary of the GHATI Hospital. However, the Registry informs that the amount of Rs.2,15,000/- was not transmitted to the GHATI Hospital and an interest of Rs.55,623/- is accrued thereon. The total amount as on date is Rs.2,70,623/-.

5. In view of the above, **this Civil Application is allowed.** The widow Shobhabai Gautam Hiwrale is at liberty to withdraw the amount of Rs.2,70,623/- under the following conditions :-

- a) Due identification of the learned Advocate for the Applicants.
- b) A recent photograph and a copy of the Aadhar Card of Shobhabai Gautam Hiwrale, shall be tendered along with the application. Besides her signature, her right hand thumb impression shall be affixed on the application for withdrawal.
- c) A joint affidavit by Applicants Shri. Prakash Gautam Hiwrale, Shri. Manoj Gautam Hiwrale, Smt. Kalpana Rahul Suradkar, Smt. Anita Uttam Pandit, Smt. Vaishali Anand Ahire and Smt. Kantabai Bhaskar Bhalerao, shall be tendered to the Registry along with the application of Shobhabai Gautam Hiwrale, declaring that, Shobhabai alone is entitled to withdraw the said amount.

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d) After compliance of these directions, the Registry would accordingly deliver the amount to Shobhabai through a bank transaction, by transferring the amount to her Savings Bank Account, details of which, would be furnished to the Registry along with her application.

(RAVINDRA V. GHUGE, J.)

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