

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.513 OF 2024

The Registrar, S.N.D.T. Women's
University and Anr.

...Petitioners

Versus

Dr. Rani R. Shetty and Ors.

...Respondents

...

Mr. S.R. Page with *Mr. Sudhakar G. Thorat* with *Ms Disha Vardhan* for the
Petitioners.

Mr. Kedar Dighe, *Addl. GP* with *Mr. Hamid Mulla*, *AGP* for *Respondent
Nos.2 and 3.*

CORAM : SANDEEP V. MARNE, J.

DATED : 13 JUNE 2024.

PC:

1. This petition challenges order dated 3 October 2023 passed by the Controlling Authority under the payment of Gratuity Act, 1972 and Judge, 9th Labour Court, Mumbai, by which the Controlling Authority directed issuance of recovery certificate against the Principal, Leelabai Thackersey College of Nursing, S.N.D.T. Women University, Churchgate, for recovery of Rs.12,10,932/- alongwith interest @ 6% per annum till 30 November 2017 till actual recovery of the amount. Another recovery certificate is directed to be issued against Principal of the said College for recovery of amount of compound interest @ 15% per annum on the interest amount of gratuity of Rs.12,10,932/- from 30 November 2017 till actual realization of the amount.

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2. Perusal of the order dated 28 February 2022 passed by the Controlling Authority indicates that gratuity amount of Rs.12,10,932/- is arrived at by taken into consideration last pay drawn by Respondent No.1 of Rs.99,950/-. Petitioners did not dispute before the Controlling Authority that the last pay drawn of Respondent No.1 was Rs.99,950/-. This is how the gratuity of Rs.12,10,932/- is computed by the Controlling Authority. Order dated 28 February 2022 has attained finality. The subsequent impugned order dated 3 October 2023 is only an consequential order on account of failure of the Petitioner to obey order dated 28 February 2022. Therefore, in my view no serious flaw can be found in the order dated 3 October 2023.

3. The only point that is sought to be canvassed by Mr. Page, the learned counsel appearing for the Petitioners is that a proposal has been sent to the office of Joint Deputy Director of Higher Education on 31 October 2023 for implementation of recommendations of 6th Pay Commission to L.T. College of Nursing, run by Petitioner-University and that once the said proposal is sanctioned, Petitioners would be in a position to obey the orders passed by the Controlling Authority on 28 February 2022.

4. Mr. Dighe, learned Additional Government Pleader appearing for Respondent Nos.2 and 3, after taking instructions from the officer present in the Court has clarified that the State Government has implemented only 5th Pay recommendations in respect of the college of the Petitioner. So far as the 6th Pay Commissions recommendations are concerned, no decision has

yet been taken by the State Government for its implementation in respect of the various colleges such as L.T. College of Nursing. He would submit that the salary of Rs.19,950/- was being paid to Respondent No.1 by the Petitioner-University and College on its own accord and that therefore it is the responsibility of the Petitioner to pay gratuity on the basis of last pay drawn by Respondent No.1.

5. In my view therefore, it is not necessary to entertain the present petition by issuing notice to Respondent No.1. Since order dated 28 February 2022 has already attained finality, the same must be implemented. The Controlling Authority has rightly directed issuance of recovery certificates by order dated 3 October 2023. The petition in my view therefore, deserves to be disposed of.

6. At this stage, Mr. Page, would invite my attention to the letter dated 18 April 2023 sent by Joint Director of Higher Education, Mumbai, by which an amount of Rs.1,79,682/- has been offered to Respondent No.1 towards gratuity as per the recommendations of the 5th Pay Commission. It appears that Respondent No.1 has refused to accept cheque for the amount of Rs.1,79,682/- on the ground that the Controlling Authority has sanctioned gratuity amount of Rs.12,10,392/- alongwith 6% interest. Mr. Page would submit that Respondent No.1 be directed to accept Award of Rs.1,79,682/- towards gratuity offered by the State Government. So far as the balance amount of gratuity towards order dated 3 October 2023 is concerned, the same will have to be obviously paid by the Petitioner.

7. Accordingly, the Joint Director of Higher Education, Mumbai, shall issue a fresh cheque of Rs.1,79,682/- towards gratuity payable to Respondent No.1, who shall accept and encash the same. The balance amount payable as per orders dated 28 February 2022 and 3 October 2023 shall be paid by the Petitioners to Respondent No.1 within 8 weeks. If and when the State Government accepts the proposal of Petitioners for implementation of 6th Pay Commission scales, it will be for Petitioners to seek reimbursement of appropriate amount of gratuity from the State Government.

8. With the above directions, the writ petition is disposed of.

[SANDEEP V. MARNE, J.]