



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

Writ Petition (WP) No. 2024 of 2024

The State of Maharashtra through Government Medical College Hospital,
Medical Chowk, Nagpur through its Dean and others

Versus

Smt. Parvatibai Bhularam Dongre

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

Court's or Judge's Order

Shri Alap Phalsikar, AGP for the petitioners.

Shri N.S. Warulkar, Advocate for the respondent.

CORAM : N.R.BORKAR, J.

DATED : 19th AUGUST, 2024.

This petition takes exception to the order dated 14th September, 2022 passed by the Controlling Authority under the Payment of Gratuity Act, 1972 (hereinafter referred as “ the Act”).

2. The respondent herein had filed an application under Section 4 of the Act. By the impugned order the competent authority has allowed the said application and directed the present petitioners to pay the gratuity amount of Rs.2,37,703.80/- to the respondent.

3. The learned Assistant Government Pleader for the petitioners submits that the respondent was the

State Government employee at the time of his retirement. It is submitted that the Act is not applicable to the State Government employees as Section 2(e) of the Act excludes persons who holds a post with the Central or State Government. It is submitted that the Controlling Authority has thus erred in entertaining the application filed by the respondent.

3. On the other hand, learned counsel for the respondent submits that the contention in relation to jurisdiction to entertain the application was not raised before the Controlling Authority. It is submitted the Act provides for remedy of appeal against the order of Controlling Authority. It is submitted that there is no explanation as to why the appeal was not filed. It is further submitted that the petition suffers from delay and laches as the same is filed after one year from the date of passing of the impugned order.

4. In rebuttal, learned Assistant Government Pleader submits that under the Act the Appellate Authority is empowered to condone the delay of 60 days only. It is submitted that the procedural approvals were not received by that time and thus appeal could not be filed.

5. The explanation in relation to delay reads thus:

“9. It is humbly submitted that the matter came to be allotted for drafting to the concerned Assistant Government Pleader on 14.11.2022. On perusal of the submitted documents, the concerned A.G.P. required relevant documents from the office of petitioner No. 1 vide telephonic communication. Thereafter the representative of the petitioner No.1 attended the office of the Government Pleader and the concerned Assistant Government Pleader required the petitioner Nos. 1 to submit the relevant documents. Further the concerned Assistant Government Pleader also sought written guidance from the petitioner to challenge the impugned judgment before this Hon’ble Court. It is humbly submitted that the petitioner No.1 attended with required documents on 14.11.2022 and immediately petition came to be drafted. After providing of the petition, the same as forwarded to the office of the petitioner No.2 vide communication dated 2.11.2023. The draft petition came to be approved by the office of petitioner No.2 vide communication dated 20.11.2023 and thereafter the petition came to be filed.

It is humbly submitted that certain delay has occurred in order to approaching this Hon’ble Court against the impugned judgment, for the reasons stated hereinabove. The delay if any, has been caused due to administrative procedural requirement and gathering of certain relevant documents, which is bonafide and need favourable consideration by this Hon’ble Court.”

6. The explanation is not satisfactory. From 14th November, 2022 till 2nd November, 2023 the matter was pending for drafting for want of relevant documents. I am therefore not inclined to entertain the

present petition. However, it would be open to the petitioners to raise the issue of jurisdiction in proceedings if filed for enforcement of the impugned order. The petition is dismissed.

[N.R.BORKAR, J.]