

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1747 OF 2006

Mr. Prakash Imanual Shinde,
Since Deceased through Legal Heirs

1(a) Sangeeta P. Shinde

1(b) Sonali P. Shinde

1(c) Prashant P. Shinde

....*Petitioner*

: *Versus* :

1. Divisional Traffic Superintendent
Maharashtra State Road Transport Corporation

2. Depot Manager, Maharashtra State
Road Transport Corporation

....*Respondents*

Mr. Meelan S. Topkar a/w. Ms. Pavitra Manesh, for the Petitioner.

Ms. Pinky Bhansali, for the Respondents-MSRTC

CORAM : SANDEEP V. MARNE, J.

Dated : 30 January 2025.

P.C. :

1) The petition challenges order dated 20 January 2006 passed by the Industrial Court dismissing the Revision preferred by the Petitioner and confirming the judgment and order dated 9 March 2005 passed by the Labour Court. Before the Labour Court, the Petitioner has challenged his termination order dated 21 March 1990.

2) There is no dispute to the position that during pendency of the proceedings before the Labour Court, interim stay was granted to the termination order dated 21 March 1990. After dismissal of the

complaint, the Industrial Court continued the said interim stay during pendency of the Revision Application. After dismissal of the Petitioner's Revision Application, when the present petition was admitted, this Court continued the interim stay on termination by order dated 27 March 2006. This is how Petitioner continued to remain in service on account of interim stay on termination. He has unfortunately passed away while in service on 5 August 2006. His legal heirs have already been paid all his terminal dues and only gratuity payable in respect of the Petitioner remains to be paid to the legal heirs.

3) Considering the above factual position, where the Petitioner has continued working with the Respondent Corporation till his death on 5 August 2006, in my view his legal heirs are required to be granted the benefit of gratuity payable in respect of the services actually rendered by the Petitioner. For that purpose, the termination order will have to be formally set aside.

4) I accordingly proceed to pass the following order :

(i) Orders dated 9 March 2005 passed by the Labour Court and 20 January 2006 passed by the Industrial Court is set aside. Similarly, the termination order dated 21 March 1990 is set aside.

(ii) As a result of setting aside of the termination order, the legal heirs of the Petitioner shall be entitled to only the benefit of gratuity in respect of the services rendered by the Petitioner-employee. Beyond the amount of gratuity, the legal heirs shall not be entitled to any other service related benefits in respect of the deceased employee.

5) With the above directions, the Writ Petition is partly allowed and disposed of. Rule is made partly absolute. There shall be no order as to costs.

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[SANDEEP V. MARNE, J.]