

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION (LD.) NO. 13933 OF 2021
IN
WRIT PETITION NO. 820 OF 2021

Chandrakant Ganpat Kamble. ..Applicant.
In the matter between :
Chandrakant Ganpat Kamble. ...Petitioner.
Versus
The Commissioner, BMC and Others. ..Respondents.

Mr. Vishwajit N. Sagare for the petitioner.
Mr. S. S. Pakle, Ms. Rupali Adhate for respondent nos. 1 to 6.
Ms. P. H. Kantharia, GP for respondent nos. 7 and 8.

CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ.
Date : **October 6, 2021.**

P. C. :

1. Grievance is raised in respect of the withholding of post retirement benefits of the petitioner, more particularly, withholding the amount due and payable against the leave encashment. Learned counsel appearing on behalf of the respondent – Corporation submitted that the action is supported by a circular issued by the Respondent–Corporation dated 4th August 2011. The caption of the circular reads “बृहन्मुंबई महानगरपालिकातील सेवानिवृत्त कर्मचा—यांच्या शिल्लक रजेच्या रोखीकरणाचे अधिदान त्वरित मिळणेबाबत त्वरीत मिळणेबाबत.”

2. The perusal of above circular shows that though the Corporation in principle agrees that post-retirement benefits of the employees are required to be released as early as possible, there are certain riders and one of such rider is clause 9. Clause 9 of the circular states that the leave encashment benefit can be withheld till the completion of departmental enquiry or judicial proceeding initiated against the employee of corporation.

3. A query was put to the learned counsel Mr. Pakale appearing on behalf of the Respondent-Corporation as to the source of such rider clause in the circular withholding leave encashment benefit of an employee. Learned counsel Mr. Pakale prayed for some time to file a short affidavit in reply in that regard. Hence, at the request of learned counsel Mr. Pakale, stand over to **13th October 2021** at 2.30 p.m.

[N R. Borkar, J.]

[Prasanna B. Varale, J.]