

MHLC120010022022

**EXH.NO. O-**

Presented on	21/12/2022
Registered on	29/12/2022
Decided on	11/03/2026
Duration	03 Y. 02 M. 11 D.

**BEFORE SHRI. A.G.MAGARE, CONTROLLING AUTHORITY UNDER
PAYMENT OF GRATUITY ACT, 1972 AND JUDGE
FIRST LABOUR COURT, PUNE.**

APPLICATION (PGA) NO. 119 OF 2022
(C.N.R.NO.MHLC120010022022)

Shri. Hemchandra Hari Narkhede.

Age : 62 yrs. Occ. Retired.

R/o. Rawet, Pune.

... **APPLICANT.**

V E R S U S

**Maharashtra State Electricity
Distribution Company Ltd.**

Through its : Superintendent Engineer,
Pune Rural, Pune.

... **OPPONENT.**

CORAM : SHRI. A.G. MAGARE, CONTROLLING AUTHORITY.

Appearances: Shri. S.T. Mhaske Advocate a/w. Shri. Akshay Kurapati,
Advocate for Applicant.
Shri. D.V. Jadhav, Advocate for Opponent.

J U D G M E N T
(DELIVERED ON : 11/03/2026)

1. The application Exh.U-2 is filed by the applicant for payment of gratuity under Sec.7(4) of Payment of Gratuity Act,1972 (in short the Act,1972) to the tune of Rs. 33,25,860/- which is deposited in this court by the opponent company, as per letter dated 03.08.2022 (Exh.C-1)

The facts of the case in nutshell are as follows:

2. According to the applicant, the opponent, Maharashtra State Electricity Distribution Company Ltd. (MSEDCL), is an undertaking under the Energy Department of the Government of Maharashtra. Wherein, he was working as an Executive Engineer and has rendered several years of service with a clean and unblemished service record. Despite, he was issued with a charge-sheet on false charges of acceptance of bribe and pursuant, he was suspended from service w.e.f. 19.05.2022. Thereafter, a departmental enquiry was conducted against him. Wherein, the enquiry officer submitted his confidential enquiry report to the Competent Authority, i.e., the Chief Engineer, Pune Circle, Pune. Upon which, the Competent Authority, after considering the said enquiry report, imposed a penalty of Rs.21,000/- upon him. The said amount of penalty recovered from him on 07.07.2022, and accordingly, he has been exonerated from the charges levelled against him.
3. However, prior due to completion of 58 years of age, he retired from service w.e.f. 30.06.2022 by the opponent company. Thus, the amount of gratuity became legally payable to him on the part of the opponent company. But due to the pendency of the aforesaid departmental enquiry, the opponent company deposited the said gratuity amount of Rs.33,25,860/- in the office of this Court vide letter Exh.C-1 of dated 03.08.2022. He further stated that, he is a retired person and has no independent source of income and having responsibility of maintaining his children and entire family. Therefore, prayed that, his gratuity amount of Rs.33,25,860/- deposited before this by the opponent be paid to him alongwith the interest accrued thereon.

4. In response, the opponent company has appeared and filed its written statement at Exh. C-4. By which submitted that, its company is a Government undertaking engaged in the distribution of electricity to consumers in the State of Maharashtra. Wherein, the applicant was working with its company and has retired from service on 30.06.2022 upon completion of 58 years of age. However, during the course of his service, he was caught in a trap by the Anti-Corruption Bureau for accepting illegal gratification. Accordingly, Crime No. 0215/2022 on 19.05.2022 registered against him at Manchar Police Station, Pune, under the provisions of the Prevention of Corruption Act, 1988. Moreover, although the gratuity amount of the applicant was determined, however, considering the seriousness of the misconduct and the pendency of the criminal proceedings, its company in compliance with the provisions of the Payment of Gratuity Act, 1972 has deposited an amount of Rs. Rs.33,25,860/- in the office of this Court vide letter dated 03.08.2022 Exh.C-1, instead making payment of the same to the applicant. Besides, since the criminal case against the applicant is still pending, it cannot be said at this stage, whether the applicant ultimately acquitted or convicted or not. Hence, the aforesaid gratuity amount cannot be paid to the applicant until the final outcome of the criminal proceedings. Therefore, prayed that, the application be rejected.
5. On the basis of pleadings of the parties, this Court has framed Issues at Exh.O-3. Accordingly, I record my findings on the issues together with my reasons thereon as under :

Sr. No.	ISSUES	FINDINGS
1	Whether the application is legally maintainable ?	In the affirmative.
2	Whether the applicant is entitled to the amount of gratuity with interest as prayed for ?	In the affirmative
2	What order ?	As per final order.

REASONS

6. Pursuant, the applicant in order to justify claim has filed his evidence affidavit at Exh.U-5. Wherein, he was duly cross examined by the Ld. Advocate for the opponent. Besides, the applicant in support thereof has filed documents at list Exh.U-4, Exh.U-15 and Exh.U-21 which are as under;

i] Photo copies of letters dated 03.08.2022 & 15.05.2023 of opponent company by which deposited amount of gratuity of Rs.32,82,238/- and Rs.43,622/- respectively in the office this Court (Exh.U-6 & Exh.U-7).

ii] Photo copy of letter dated 27.06.2022 issued by the opponent to the applicant (Exh.U-8).

iii] Photo copy of receipt showing that, the applicant has deposited amount of Rs.21,000/- towards penalty with the opponent company(Exh.U-9).

iv] Photo copy of order of retirement dated 30.06.2022(Exh.U-10).

v] Photo copies of Aadhar Card and Pan Card of the applicant (Exh.U-11).

vi] Photo copy of letter dated 16.03.2022 issued by the opponent company to Shri. Bhivsen Walunj (Exh.U-16)

vii] Attested copy Out Ward Dispatch Entry (Exh.U-17).

viii] Photo copy of gratuity sanction letter dated 30.06.2022.

xi] Colour copies of Appreciation Letters issued to the applicant (Exh.U-19 Colly).

x] Photo copies of extract of service book of the applicant.

Thereafter, the applicant has closed his evidence vide pursis at Exh.U-12.

7. In rebuttal, the opponent company has also adduced its oral evidence by filing evidence affidavit of its witness namely Shri. Vasant Thakuji Waje at Exh.C-6 and he was duly cross examined by the Ld. Advocate for the applicant. Apart, the opponent company also relied upon the documents filed at Exh.C-8 and Exh.C-11, those are as below;
- i] Photo copy of final punishment order dated 27.06.2022 awarded to the applicant by the opponent company (Exh.C-12)
 - ii] Photo copy of show cause notice dated 24.06.2022 issued to the applicant by opponent company (Exh.C-13)
 - iii] Photo copy of charge sheet dated 13.06.2022 issued to the applicant by opponent company (Exh.C-14).
 - iv] Photo copy of suspension order dated 23.05.2022 issued to the applicant by opponent company (Exh.C-15).
 - v] Photo copy of letter dated 23.05.2022 issued by the office of the Anti Corruption Bureau, Pune to the opponent company (Exh.C-16).
 - vi] Copy of FIR (Exh.C-17)
 - vii] Photo copy of newspaper item published in Daily Sakal (Exh.C-18)
 - viii] Photo Copy of Administrative Circular No.197 dated 26.12.2008.

Subsequently, the opponent closed its evidence vide pursis Exh.C-19.

8. Heard. Wherein, Ld. Advocate for the applicant vehemently argued that, the applicant served with opponent company, for several years as an Executive Engineer with a clean and unblemished service record. However, pursuant to certain allegations, a departmental enquiry was conducted and ultimately only a minor penalty of Rs.21,000/- was imposed upon him which has been already recovered from him and discharged

him for the charges levelled against him in the charge sheet. Thus, no charge remains against the applicant. Besides, the applicant is retired from service w.e.f. 30.06.2022 upon attaining the age of superannuation. Thus, having rendered long and continuous service, he is legally entitled to gratuity amount of Rs.33,25,860/- under the provisions of the Payment of Gratuity Act, 1972 as deposited by the opponent company in the office of this Court. Therefore, the Ld. Advocate for the applicant strongly urged that, there is no legal impediment in making payment of the said amount of gratuity alongwith accrued interest to the applicant. Apart, the Ld. Advocate for applicant in support of his oral argument has relied on the following reported judgments filed at list Exh.U-22.

i] **Union of India & Ors. V/s. C.G. Ajay Babu & Anr. 2018 LLR 1051**
ii] **New India Assurance Company Ltd. V/s. Ashwin Chimanlal Sheth & 2 Ors. 2010 (III)CLR 765.**

9. Conversely, the Ld. Advocate for the opponent company strongly argued that, the applicant, while in services of its company was caught red-handed in a trap laid by the Anti-Corruption Bureau for accepting illegal gratification and accordingly Crime No. 0215/2022 on 19.05.2022 was registered against him at Manchar Police Station, Pune under the provisions of the Prevention of Corruption Act, 1988. So, considering the seriousness of the charges and the pendency of the said criminal prosecution, the opponent company, in compliance with the provisions of the Payment of Gratuity Act, 1972, has deposited the gratuity amount of Rs.33,25,860/- in the office of this Court. Apart since the criminal case is still pending and the question of acquittal or conviction is yet to be determined, then in that case, the gratuity amount cannot be paid to the applicant at this stage. Therefore, the Ld. Advocate for the opponent company prayed that, the

present application deserves to be rejected.

- 10.**Wherein, it is seen from the record that, though the applicant in his evidence affidavit at Exh.U-5 has reiterated the contents of his claim application, however, in his cross-examination, admitted that, he was working as an Executive Engineer with the opponent company and retired from service on 30.06.2022 upon attaining the age of superannuation. Moreover, as if, though, he admitted that, pursuant to the complaint registered by the Anti-Corruption Bureau, a departmental enquiry was conducted against him and he was awarded a punishment of fine of Rs.21,000/-, but which has been already paid by him and discharged him from the charge levelled against him in the charge sheet. Besides, the applicant further admitted Administrative Circular No.197 dated 26.12.2008 which does not provide for withholding or forfeiture of gratuity merely on the ground of pendency of a criminal case.
- 11.**In rebuttal, likewise, though the witness of the opponent company namely Shri. Vasant Thakuji Waje, in his evidence affidavit at Exh.C-6 supported the case of the opponent company, but in his cross-examination, admitted that, the gratuity amount of the applicant has already been sanctioned by the opponent company as per document Exh.U-18. Moreover, he admitted that, the applicant was punished in the departmental enquiry only under Clause-91 of the MSEDCL Service Regulations, 2005, which relates to minor misconduct and pursuant the applicant has already paid the fine of Rs.21,000/-, which was recovered as the final punishment. Furthermore, he admitted that, after recovery of the said fine amount, the sanctioned gratuity amount of the applicant has been deposited in the office of this Court by the opponent company. He further admitted that, there is no direct mention in the FIR (Exh.C-17) or in the departmental charge-sheet

(Exh.C-14) regarding acceptance of bribe of Rs.5,000/- by the applicant. Apart, he admitted that, appreciation letters issued by the opponent company to the applicant reflects the applicant's satisfactory service record.

12. Apart, on bare perusal of Exh. U-8 and Exh. C-12, i.e., the order of final punishment of dated 27.06.2022, reveals that, the competent authority has imposed penalty of recovery of an amount of Rs.21,000/- against applicant out of payable amount of Rs.51,000/- to him. Pursuant, the applicant vide Exh.U-9 has deposited the said amount of Rs.21,000/- with the opponent company. Moreover seen by office order dated 30.06.2022 (Exh.U-10) that, the applicant has been retired from the services of the opponent on 30.06.2022. Besides, seen by Gratuity Sanction Order dated 30.06.2022 (Exh.U-18) that, the competent authority of opponent company has sanctioned gratuity of Rs. 37,65,256/- payable to applicant on account of his superannuation on 30.06.2022 However, it is mentioned therein that, since an ACB (Anti-Corruption Bureau) case is pending against him, the gratuity amount is to be deposited with the competent authority under the Payment of Gratuity Act until the criminal case is finalized.

13. Upon an overall appreciation of the oral and documentary evidence on record, it clearly emerges that, the applicant was working with the opponent company as an Executive Engineer and he retired from service on 30.06.2022 upon attaining the age of superannuation. Besides, the documents placed on record shows that, the competent authority of the opponent company has already sanctioned the gratuity amount payable to the applicant as per the Gratuity Sanction Order dated 30.06.2022 (Exh.U-18). It is also evident from the documents at Exh.U-8 and Exh.C-12 that, pursuant to the departmental enquiry conducted

against the applicant, the competent authority imposed only a minor penalty of recovery of Rs.21,000/-. Pursuant, the applicant has already deposited the said amount with the opponent company as reflected from Exh.U-9. Thus, the departmental proceedings against the applicant has already concluded and ended and no further punishment remains to be imposed upon him.

14.Further, by the evidence of the opponent's witness Shri. Vasant Thakuji Waje clearly reveals that, the applicant was punished only for minor misconduct under Clause-91 of the MSEDCL Service Regulations, 2005, and the gratuity amount was already sanctioned, which later deposited in this office of this Court. The said witness of the opponent has also admitted that, the Administrative Circular No.197 dated 26.12.2008 does not contain any provision enabling the employer to withhold gratuity merely on the ground of a criminal case is pending. Rather, it is pertinent to note here that, before withholding or forfeiting gratuity, the employer is required to follow the mandate of Section 4(6) of the Payment of Gratuity Act, 1972, which contemplates forfeiture of gratuity only in specific circumstances such as termination for misconduct involving moral turpitude or loss to the employer. In the present case, the applicant has not been dismissed or terminated for such misconduct, but has retired on attaining the age of superannuation. Moreover, the record does not show that, any show-cause notice proposing forfeiture or withholding of gratuity was ever issued to the applicant. Therefore, the action of the opponent company in withholding the gratuity amount solely on the ground of a criminal case is pending cannot be sustained in law.

15. Apart it is also clear by reported judgment of the **Hon'ble Supreme Court** in the matter of **Union of India & Ors.**, that, gratuity cannot be withheld merely on the ground of criminal or disciplinary proceedings are pending, unless the conditions for forfeiture as contemplated under the Payment of Gratuity Act, 1972 are strictly satisfied. Similarly, it is also clear by the reported judgment of the **Hon'ble Gujarat High Court** in the matter of **New India Assurance Co. Ltd.** (supra) that, gratuity is a statutory right of an employee and the same cannot be denied except if there is separate and specific order of forfeiture of gratuity passed by the competent authority upon hearing concerned employee, which is absent herein. Rather, in the present case, the opponent company has neither established any ground for forfeiture under the provisions of the Act of 1972 nor demonstrated that, the applicant's service was terminated for misconduct attracting such forfeiture. On the contrary, the material on record clearly indicates that, the applicant has retired from service on superannuation and the gratuity payable to him has already been determined and sanctioned and it is deposited by the opponent company in the office of this Court vide letter Exh.C-1.

16. It is further pertinent to note here that, both the parties have not disputed the amount of Rs.33,25,860/- towards gratuity deposited in the office of this Court by the opponent company. Moreover, as per the report submitted by the Accounts Section of this Court at Exh.O-3 the aforesaid amount of Rs.33,25,860/- has been invested with Bank of Baroda, Subhash Nagar Branch, Pune. In view of the aforesaid facts and settled legal position, it clearly emerges that, the applicant has successfully established his legal entitlement to the aforesaid gratuity amount deposited in the office of this Court. Consequently, it is required to be held that,

the applicant is entitled to withdraw the gratuity amount of Rs.33,25,860/- deposited by the opponent company in the office of this Court, together with the interest accrued thereon. Accordingly, the Issues No.1 to 2 are answered in the affirmative.

17.AS TO ISSUE NO.3:- In view of the findings as to Issue No.1 and 2, in my opinion, the Application(PGA) Exh.U-2, filed by the applicant requires to be allowed. Hence, I proceed to pass the following order;

ORDER

1. Application(PGA)No.119/2022 is hereby is disposed of in the following terms;
 - a] The applicant is entitled to receive an amount of Rs.33,25,860/- (Rupees Thirty-Three Lakh Twenty-Five Thousand Eight Hundred Sixty Only) towards gratuity alongwith the interest accrued thereon till its realization, which amount has already been deposited in the office of this Court.
 - b] The office of this Court is directed to permit the applicant to withdraw the aforesaid amount of gratuity Rs.33,25,860/- (Rupees Thirty Three Lakh Twenty Five Thousand Eight Hundred Sixty Only) alongwith interest accrued thereon till its realization and the said amount be transfer to his Bank Account through RTGS/NEFT by obtaining necessary documents from the applicant.
2. Accordingly Application(PGA) Exh.U-2 is hereby allowed and Application Exh.C-1 disposed of.
3. No order as to cost.

Place : Pune
Date : 11/03/2026

(Shri. A.G. Magare.)
Controlling Authority under PGA &
Judge, First Labour Court, Pune.

Argued on : 06/03/2026
Judgment dictated on : 11/03/2026
Judgment transcribed on : 11/03/2026
Judgment checked and signed on : 11/03/2026