



Presented on	30/04/2019
Registered on	02/05/2019
Decided on	10/08/2026
Duration	Y M D
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Exh.O-2

IN THE LABOUR COURT NO.1 AT AURANGABAD
BEFORE R. I. SONAWANE THE CONTROLLING AUTHORITY
UNDER PGA AND JUDGE, LABOUR COURT-1, AURANGABAD

Appln. PGA No.207/2019
CNR No. MHLC20000492-2019

Deceased Radhakisan**S/o Dashrath Dakale,**

Through his legal heirs / legal representatives

- 1] **Shri Narayan S/o Radhakisan Dakale,**
Age : 33 years, Occu. Teacher,
At Gevarai Gungi,
Post Gevarai Payaga,
Tq. Fulambri, Dist. Aurangabad.
- 2] **Shri Purushottam S/o Radhakisan Dakale,**
Age : 29 years, Occ. - Agriculture,
At Gevarai Gungi,
Post Gevarai Payaga,
Tq. Fulambri, Dist. Aurangabad.
- 3] **Smt. Urmilabai w/o Paraji Kuber,**
Age : 42 years, Occu. Housewife,
AT Gevarai Kuber,
Tq. Aurangabad, Dist. Aurangabad.
- 4] **Smt. Ganga w/o Kakaji Fuke,**
Age : 34 years, Occu. Housewife,
At Nimkheda Post : Borgaon (Arja)
Tq. Fulambri, Dist. Aurangabad.
- 5] **Smt. Nanada w/o Raghunandan Ukirde,**
Age : 31 years, Occu. Housewife,
AT Post : Karmad,
Tq. Aurangabad, Dist. Aurangabad.

...Applicants

Vs.

**The Managing Director,
Sidheswar Sahakari Sakhar Karkhana Ltd.**
Manik Nagar Bhavan,
Tq. Sillod, Dist. Aurangabad.

...Respondent

Appearances :

Advocate Shri J. S. Bhovate for the applicants
Advocate Shri V. N. Upadhye for the respondent

JUDGMENT

(Dictated & delivered 10/08/2026)

This application is filed under Section 4 of the Payment of Gratuity Act, 1972. (Hereinafter referred as the Act).

The brief facts of the case are as under:

2] The applicants are claiming payment of gratuity against respondent by claiming that they are the legal heirs and legal representatives of the deceased employee late Radhakisan S/o Dashrath Dakale. The applicant Nos. 1 and 2 are the sons of deceased and the applicant Nos. 3 to 5 are married daughters of the deceased. They are claiming that their father deceased Radhakisan was the employee of the respondent company and has died on 02/05/2012. He was working with the respondent from 1975 in Agricultural department and he was illegally dismissed from service by order dtd. 23/04/1997. Against that dismissal he had filed Appln BIR No.02/1997 in the Labour Court at Aurangabad. During the pendency of said application, original applicant Radhakisan Dakale died in the year 2012 and his legal representatives were brought on record in that proceeding. The said Appln BIR No.02/1997 was decided by Labour Court at Aurangabad by its Judgment dtd.

28/08/2018 and said application was allowed. Thereby the dismissal of deceased Radhakisan by order dtd. 23/04/1997 was held to be illegal and it was set aside. In the said order it was directed by Hon'ble Labour Court that deceased was entitled to 50% of back wages w. e. f. 23/04/1997 till his death i.e. 02/05/2012 with all consequential other retirement, monetary benefits from the respondent.

3] The appeal was preferred against said Judgment by the present respondent before Hon'ble Industrial Court, Aurangabad vide Appeal BIR No.01/2018. The said appeal was decided by Hon'ble Industrial Court, Aurangabad by its Judgment dtd. 27/03/2025 and it dismissed the appeal confirming the order of Labour Court dtd. 28/08/2018. The applicants had also filed Appln IDA No.46/2018 in the Labour Court, Aurangabad which was decided by Judgment dtd. 28/05/2026 and respondent was directed to pay the amount with interest. Therefore, it can be seen that the services of the deceased employee were regular till his death on 02/05/2012. Till today no gratuity has been paid by the respondent to the present applicants who are the legal representatives of the deceased employee. Therefore, they have filed the present application for deciding and payment of gratuity as per rules.

4] It is contended that the deceased was appointed in the Agricultural department of respondent w. e. f. 01/11/1975 and rendered continuous service till his death i.e. till 02/05/2012 for 37 years. He was the permanent seasonal employee. The deceased was getting last drawn wages of Rs.18,300/- per month. However, the

respondent did not pay the amount of gratuity calculated on last drawn wages of Rs.18,300/- divided by 26 X 37 years service X 7 = Total Rs.1,82,296/- despite demand and therefore, the applicants have claimed the gratuity in terms of prayer clause of the application with interest @ 12% per annum from the date of it's due till it's actual realization.

5] The respondent on service of notice did appear before the Court with Advocate but failed to file the written statement despite sufficient opportunities. Therefore, the application was proceeded without his written statement by passing below Exh. U-1 dtd. 17/06/2020. After that the evidence of the applicants was recorded and the arguments were heard. Even for the argument the respondent and his Advocate did not remain present and therefore, the application is taken up for Judgment without argument of the respondent by order dtd. 03/08/2026.

6] On the basis of contentions of the applicants and evidence produced on record by them, following points arise for my determination. I record the same hereunder along with my findings thereon for the reasons to follow :

Sr. No.	POINTS	FINDINGS
01	Whether applicants have established pre-existing right against the respondent ?	..In the affirmative.
02	Whether applicants are entitled for gratuity amount of Rs. 1,82,296/- with interest @ 12% and costs as prayed ?	..In the affirmative.
03	What Order ?	As per final order.

REASONS

7] In order to prove the contents of the application applicant No. 1 Mr. Narayan Radhakisan Dakale examined himself on oath vide evidence affidavit below Exh.U-6 and thereafter closed his oral evidence by filing pursis at Exh.U-10/A. Along with the oral evidence applicants also relied on documentary evidence like notice issued by them to the respondent for payment of gratuity vide Exh.U-10, certified copy of Judgment of Labour Court, Aurangabad in Appln BIR No.02/1997 vide Exh.U-11, certified copy of Judgment of Hon'ble Industrial Court, Aurangabad in Appeal BIR No.01/2018 and certified copy of Judgment of Labour Court in Appln IDA No. 46/2018 vide Exh.U-14. As against this the respondent did not lead any evidence and his evidence was closed by passing order below Exh.U-1 on 30/10/2025.

AS TO POINT NOS. 1 AND 2 :-

8] The applicants have submitted that deceased was working with respondent from 1975 till his death in the year 2012 i.e. for continuous 37 years. The applicant No. 1 has deposed to that effect in his examination-in-chief at Exh.U-6. He has not been cross-examined by the respondent despite sufficient opportunities therefore, the matter is proceeded without his cross-examination. As such his evidence has remained unchallenged and therefore, there is no reason to disbelieve the same. The applicants have also brought on record the copies of Judgments of Hon'ble Labour Court and Hon'ble Industrial Court, Aurangabad in case filed by the deceased under the Bombay Industrial Relations Act vide Exh. U-11 and U-12.

On perusal of these Judgments it can be seen that deceased was dismissed from service in the year 1997 but his dismissal has been set aside by the Courts and he was given the benefit of back wages. Therefore, it can be seen that the deceased was in service till his death in the year 2012. As such the deceased was working with the respondent almost for 37 years and there is no reason to disbelieve the same. The applicants have also brought on record the letter issued by them to the respondent to pay the amount of gratuity vide Exh.U-10. On perusal of said letter it can be seen that applicants prayed for gratuity of the deceased from the respondent on 28/01/2019 itself but the gratuity is not paid.

9] The applicants have claimed the gratuity amount calculated on last drawn wages of Rs.18,300/- divided by 26 X 37 years service X 7 = Total Rs.1,82,296/- with interest @ 12% per annum from the date it became due till it's actual realization with cost of the litigation.

10] From the evidence of the applicants and documents filed on record by them, the claim of last drawn wages received by the deceased and by virtue of other Judgments brought on record as well as the calculation of the gratuity amount claimed by the applicants, they have proved the pre-existing liability of the gratuity amount of Rs.1,82,296/- on the respondent. The amount of gratuity claimed on the wages and the calculation of amount of Rs. 1,82,296/- is found to be just and reasonable and therefore applicant is entitled for the said amount with interest @ 10% as per

notification 1987 under the Act though the applicant has claimed 12% interest.

11] The applicants have claimed cost of litigation without specifying any amount. Therefore, the applicants are entitled for reasonable cost of litigation. Hence, for the aforesaid reasons and considering the evidence of the applicant coupled with documents filed on record, the applicants are entitled for gratuity of Rs. 1,82,296/- @ rate of 10% p.a. from respondent from the date of death of the deceased i.e. 02/05/2012 till its realization. Accordingly, I record the findings of point Nos. 1 and 2 in the affirmative.

AS TO POINT NO. 3 :-

12] In view of my discussion and findings of above point Nos. 1 and 2, to answer point No. 3, I pass the following order :-

ORDER

1]	The application is allowed with costs.
2]	The respondent is directed to deposit or pay an amount of Rs. 1,82,296/- as gratuity amount to the applicants with interest @ 10% p.a. from the due date dtd.02/05/2012 till its realization within the period of 2 months from the date of this order.
3]	The respondent is directed to pay the cost of Rs.10,000/- to the applicants within 60 days from the date of this order.

(Dictated and declared in open Court)

(R. I. Sonawane)

Controlling Authority under P.G. A. & Judge,
Labour Court-1, Aurangabad.

Date : 10/08/2026