MHLC340001502025	Presented on	:	02.06.2025
	Registered on	:	11.06.2025
	Decided on	:	08.05.2026
	Duration	:	Y M D
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BEFORE THE CONTROLLING AUTHORITY UNDER THE PAYMENT OF GRATUITY ACT AND JUDGE LABOUR COURT CHANDRAPUR.
(Presided over by A. D. Tidke)

P.G.A Case No. 80/2025
Exh. O-05.

Dhanraj Domaji Bhalerao,
Aged about- 59 years, Occu- Retired.
R/o. At: Vandhali, Po: Panzurni,
Tq: Warora,Distt- Chandrapur.

….. Applicant

V E R S U S

01. Zilla Parishad, Chandrapur;
Through It's Chief Executive Officer,
Zilla Parishad Chandrapur,
Tah. and Distt- Chandrapur.

02. Zilla Parishad, Chandrapur;
Through it's District Health Officer,
Zilla Parishad, Chandrapur.
Tah. and Distt- Chandrapur.

03. Block Development Officer,
Panchayat Samiti Chimur,
Tq. Chimur, Dist: Chandrapur

…..Non-applicants.

Appearance:
Shri. S. M.Rathi. Ld. Adv. for the applicant.
Shri. R. A. Sanghavi Ld. Adv. for the non-applicants No. 1 and 2
Non-applicant no.3 ex-parte

Claim: Application for grant of gratuity amount under section 7 and 4 of the Payment of Gratuity Act, 1972.

JUDGMENT

(Delivered on this 08th Day of May, 2026)

This is an application under the provisions of section 7(4)(B) of the Payment of Gratuity Act,1972 for seeking direction against the non-applicants to release balance gratuity amount of rupees 7,62,421/- to the applicant along with interest at the rate of 10 % per annum. The Payment of Gratuity Act is hereinafter referred to as P. G. Act for the sake brevity.

APPLICANT'S CASE.

02. The applicant was appointed in the services of Zilla Parishad Chandrapur as per order of non-applicant no.1 and he joined on 29.11.1995 as Bahuuddeshiya Health employee. The applicant was posted at Medical Officer Primary Health Centre Gound Pimpri Tq. Gound Pimpri, Distt: Chandrapur under the control and supervision of non-applicant no.1 and 2. Thereafter, the applicant was transferred time to time and he got retired on 31.07.2024 on the post of Health Supervisor. Since the date of joining to till the date of retirement, the applicant has completed continuous service of 240 days in each year of his service. The applicant has served towards non-applicants for 29 year 08 month 02 days.

03. The non-applicant no.2 has issued salary certificate to the applicant for the month of July 2024 and as per said salary certificate, basic salary and dearness allowance of the applicant is valued at rupees 97,560/-. The non-applicant Zilla Parishad is a local body and it is not exempted under section 5 of the Payment of Gratuity Act,1972, and therefore, the provisions of P. G. Act are applicable to the non-applicants. As per notification S.O. 239, dated 08.01.1982 issued by the Central Govt. under section 1 (3) (c) of the Act, the Local bodies are governed by the P. G. Act,1972. The applicant was working with establishment of the non-applicant as Health Supervisor and was getting salary on monthly basis, and hence, the applicant is employee under section 2 (e) of P. G. Act and Zilla Parishad is employer of the applicant. The applicant is entitled to receive gratuity amount as per section 4 of the P. G. Act.

04. It is further submitted that the applicant was entitled for gratuity amount of Rs.16,90,096/- from non-applicants but he was paid only sum of Rs. 9,27,675/-, and therefore, the applicant is entitled for difference of gratuity amount to the extent of Rs. 7,62,421/-. The non-applicants are liable to pay the said difference amount along with interest at the rate of 10 % per annum. The applicant through his Ld. Advocate issue notice to the non-applicants for making payment of difference amount of the gratuity but no reply was given. The non-applicant also failed to make payment of difference of the gratuity amount. As such, the applicant has prayed for direction against the non-applicant to release difference of gratuity amount of Rs. 7,62,421/- with interest at the rate of 10 % per annum.

NON-APPLICANT'S CASE.

05. The matter is proceeded ex-parte against non-applicant no.3. However, non-applicants 1 and 2 have resisted the claim of the applicant by filing written statement at Exh. C-03 and categorically denied the claim of the applicant. However, it is not disputed that the non-applicants have maintained service book of the applicant. It is also not disputed that salary certificate was issued to the applicant and the salary of the applicant including dearness allowance for the month of July 2020 was Rs. 97,650/-

06. Further contended by the non-applicants that, the applicant has filed the present application under the provisions of P. G. Act, 1972 and calculated amount as per the said Act, but the provisions of P. G. Act are not applicable to the applicant. The definition of employee given in section 2 (e) of P. G. Act clearly states that employee does not include any such person who holds the post under the Central Govt or a State Govt. and is governed by any other Act or by rules providing for payment of gratuity. The non-applicants and their employees are governed by Maharashtra

Civil Services Pension Rules 1982. The applicant has filed present application under the wrong provisions of law, and therefore, this Court has no jurisdiction to decide the present matter.

07. Further contended by the non-applicants that, the provisions of Maharashtra Civil Services Pension Rules have been amended as per notification issued by Maharashtra Govt. finance department bearing no. PEN 2019/CR.No.58/Ser-4 dated 1st March,2019. According to the revision of pay rules following provisions have been made.

Issue no. 4 (Pay): For calculation of various benefit related to retirement pay, the term basic pay in the revised pay structure shall mean the pay drawn by the Govt. servant before his retirement/immediate date of death in the prescribed pay band as per 7th Pay commission but will not include special pay.

08. According to the said govt decisions the retirement/death gratuity will be calculated on the basic pay mentioned in issue no.4 of Govt resolution. As per Maharashtra Civil Services Pension Rules, Rule 111 (1), Government servant retired after 01.01.2016 shall be eligible for retirement gratuity equal to one fourth of last basic pay drawn, for each completed six monthly period of qualifying service subject to maximum of 16 and ½ times of the pay or Rupees 14 Lakh, whichever is less. The Gratuity of the applicant is calculated as per the provisions of Govt. resolution dated 01.03.2019 which comes to Rs. 9,27,675/-. The said amount paid to the applicant is just and proper and paid as per rules. It is further contended that the calculation of gratuity amount made by the applicant to the tune of Rs.16,90,096/- is incorrect and it seems to include dearness allowance while making calculation. The applicant is governed by the provisions of MCSR Pension Rules. With these contentions, the non-applicants have prayed for dismissal of the application.

09. Considering rival submission of the parties, I have framed issues at exhibit 0-03 which are reproduced below as it is. I have recorded my findings against each of those issues for the reasons given hereinafter.

Sr. No.	**ISSUES**	**FINDINGS**
01	Does the applicant prove that non-applicants have illegally withheld the payment of gratuity amount of Rs. 7,62,421/- as alleged?	Partly Affirmative.
02.	Whether the non-applicants prove that the amount of gratuity of the applicant is to be determined by MCS (Pension) Rules,1982 and not by the provisions of Payment of Gratuity Act?	In the negative.
03.	Whether the applicant is entitled to recover gratuity amount as prayed?	Partly allowed.
04.	What order?	As per final order.

: REASONS:

AS TO ISSUE NOS. 1 TO 4

10. All issues are closely connected with each other; therefore, they have been taken up for consideration together to avoid repetition of discussion of the evidence. The pleading of the Non-applicants is that gratuity amount payable to the applicant is governed by the provisions of Maharashtra Civil Services (Pension) Rules 1982 (in short “MCSR (Pension) Rule. In support of their submission, the Non-applicants relied on the provisions of Rule 111 (1) of MCSR Pension Rules which states that the Govt. servant who has completed eligibility service of five years and those who have become entitled for gratuity and pension as per Rule 110 of MCSR Pension Rules, will be entitled to receive gratuity for every completed service of six month which shall be to the extent of ¼ part of his salary subject to limit sixteen and half time of the pension salary.

11. The Ld. Counsel for the Non-applicants have also relied on the Govt. Resolution issued by the finance department of the Ministry of Mumbai bearing Govt. Circular No. SNV-2019/Case No. 58/Service-4 dated 01.03.2019 which is filed on record at exhibit C-12. The clause 6 of the said resolution prescribed that calculation of the gratuity amount shall be done on the basis of modified basic salary. Further reference of Rule 111 (1) has been given in the said circular and cap of maximum limit of gratuity amount as sixteen and half time of pension salary or rupees fourteen lakh has been fixed for the servants who will be retired after 01.01.2016. Thus, the case of the respondent is that the applicant is not governed by the provisions of Payment of Gratuity

Act, and therefore, not entitled to receive gratuity as per provision of the Payment of Gratuity Act.

12. Besides, the Ld. Counsel for the applicant has submitted that the provisions of the Payment of Gratuity Act are applicable to the applicant and the calculation of the gratuity amount is to be done in view of the provisions of the Payment of Gratuity Act. The Ld. Counsel for the applicant in support of his submission has relied on the common judgment of the Hon'ble Bombay High Court Bench at Nagpur delivered on 29.04.2025 in a batch of seven Writ Petitions in **Zilla Parishad Washim and Anr Vs. Controlling Authority and Anr** bearing Writ Petition No. 3758/24, 3759/24, 3760/24, 3761/24, 3762/24, 3763/24, 3764/24. The Hon'ble Bombay High Court referring to the provisions of section 5 and 14 of the Payment of Gratuity Act has observed in last part para 15 as " *after perusing the provisions of section 5 of the Act, it is very clear that unless there is any exemption* sought *by the establishment from the Government and which is duly notified by the Government, the employee in such establishment are in receipt of gratuity or pensionary benefit not less favorable than the benefit conferred under this Act. Section 14 of the P. G. Act provides that the Act shall override other enactments to the extent any inconsistent therewith contained in any enactments other than this Act*"

13. The Hon'ble Bombay High Court by making observation as

(A. D. Tidke)
Judge, Labour Court, Chandrapur.

above has held that the Provisions of the Payment of Gratuity are applicable to the employees unless exemption is sought under section 5. Further, the Ld. Counsel for the applicant has relied upon another judgment of the Hon'ble Bombay High Court Bench at Nagpur delivered in **Municipal Council Anjangao Suraji through it's Chief Officer Vs. Shaikh Shakir Shaikhji** on 25.08.2025 in batch of three Writ Petition bearing W.P No. 4858/25, 4859/25 and 4866/2025. This citation deals with same findings wherein the Hon'ble Bombay High Court be referring provisions of section 14 has held that the provisions of P. G. Act will have overriding effect on conflicting enactments, rules instrument or contracts.

14. The Ld. Counsel for the applicant during cross examination of the Non-applicants witness no. 1 has specifically put question, whether central Govt. has grant exemption to Zilla Parishad from the application of the provisions of the P. G. Act. In response to this question, it is clearly stated that the Central Govt has not grant such exemption and no application to that effect was filed before Central Govt. It is also worth to state here that the Hon'ble Apex Court **in Municipal Corporation of Delhi Vs. Dharam Prakash Sharma & Anr reported in AIR 1999 SC 293** by referring the provisions of Pension Rules has held that the definition of employee in section 2 (e) Payment of Gratuity Act which exclude employee of the Central Govt. and State Govt. receiving pension and gratuity under pension rules but not an employee of Municipal Council Delhi. The MCD employee, therefore, they would be entitled to the payment of gratuity under the Payment of Gratuity Act.

15. Admittedly, the applicant in the present case is not the employee of the Central Govt. or State Govt. but the applicant is the employee of Zilla Parishad which is the local authority. As such, it is quite clear from the aforesaid discussion and the judgment of the Hon'ble Bombay High Court and Hon'ble Apex Court that, the applicant being an employee of the local authority will be entitled for gratuity as per the provisions of the Payment of Gratuity Act. As such, I am of the considered opinion that the applicant is governed by the provisions of P. G. Act so far grant of gratuity amount is concerned.

16. The applicant has to show that the amount of gratuity to the extent of sum of Rs. 7,62,421/- is still left to be paid by the respondent which has been withheld arbitrarily. The applicant in her affidavit-in-lieu of evidence has reproduced contents of the plaint. The Ld. Counsel for the Non-applicants have cross-examined the applicant in detail, but nothing adverse is brought on record against the case of the applicant. The Non-applicants have also relied upon the testimony of Shri Ganpat Deote (RW-1) who is working as administrative officer in health department. The Non-applicant's witness also reproduced the contents of the written statement in verbatim. The Ld. Counsel for the applicant has cross examined him in detail, wherein, he has clearly stated that no exemption is granted by the Central Govt. to the respondent local authority from application of the P. G. Act. I have already come to the conclusion that the provisions of the Payment of Gratuity Act are applicable to the present applicant, therefore, calculation of the gratuity amount to be paid to the applicant is to be made in view of the provisions of P. G. Act.

17. Admittedly, the applicant has been already paid gratuity amount of Rs. 9,27,675/- but still the applicant is claiming amount of Rs. 7,62,421/- as difference amount. It is not disputed that last pay of the applicant including dearness allowance was rupees 97,650/-. The Non-applicants while filing reply has stated that the salary and dearness allowance payable to the applicant is a matter of record. However, nothing is brought on record to show otherwise. As such considering basic salary and dearness allowance of the applicant as Rs. 97,650/- per month the calculation of gratuity amount needs to be done.

18. The applicant was appointed on 29.11.1995, and he superannuated on 31.07.2024. While considering service for the purpose of gratuity, the period of one year is to be reckoned from the date of appointment of the applicant. If the date of appointment and retirement of the applicant is considered, it appears that he has served for 29 Years, 02 Months and 02 days till the date 31.07.2024. Thus, the applicant has completed 29 years of his service and he is entitled for gratuity amount for the said period. As such, the equation would be 97,650/-x

15=14,64,750/26= 56,366.5/- x 29= 16,33,759/-. The total amount of gratuity payable to the applicant was Rs. 16,33,759/-. However, the applicant is already paid rupees 9,27,675/-. If amount paid to the applicant is taken in to consideration and subtracted from amount paid to the applicant, then the balance amount to be paid to the applicant is valued at rupee 7,06,084/- only.

19. It is clear that determination of the gratuity amount payable to the applicant was not done properly at instance of the respondent. The respondent being employer was liable to pay whole gratuity amount within the period of thirty days from the date of retirement. It is necessary to pay interest on delayed amount of gratuity as per the rate prescribed by the Central Govt. on long term deposits. The prescribed rate of interest for delayed payment is 10%. The liability of employer to pay gratuity within 30 days is not complied with by the respondent. In the said facts and circumstances, the applicant would be entitled to get interest from 01.09.2024 to till realization of the said amount. Hence, I answer issue no. 1 in the partly affirmative, issue no.2 in the negative and issue no. 3 as partly affirmative and passed following order as against issue no.4.

O R D E R

01. Application is partly allowed in following terms.

02. The non applicants are directed to pay remaining

sum of gratuity amount i.e Rs. 7,06,084/- (Rupees Seven Lakhs Six Thousand Eighty Four Only) to the applicant along with simple interest @ 10 % per annum from 01.09.2024 to till realization of the whole amount.

03. Both parties to bear their own Costs.

DISTRICT COURTS MAHARASHTRA

Digitally signed by TIDKE AMARDEEP DADARAO
Date: 2026.05.08 17:29:48 +0530

Date: 08.05.2026
Place: Chandrapur

(A.D.Tidke)
Controlling Authority under
The Payment of Gratuity Act,
Judge, Labour Court Chandrapur.

Argued on	:	08.05.2026
Direct Typed on	:	08.05.2026
Pronounced on	:	08.05.2026
Checked and signed on	:	08.05.2026

(A. D. Tidke)
Judge, Labour Court, Chandrapur.