Exh. O-4

MHLC210000702025

Received on : 25/03/2025

Registered on : 25/03/2025

Decided on : 01/08/2026

*Duration : **01Y 04 M 07D***

BEFORE THE CONTROLLING AUTHORITY UNDER THE PAYMENT OF GRATUITY ACT AND JUDGE, LABOUR COURT, JALNA
(Presiding Officer Smt. C. V. Shirsat)

APPLICATION (PGA) NO. 42 OF 2025

CNR No. MHLC-21000070-2025

Raju Rustamrao Shevlikar
Age : 59 years, Occu. Nil
R/o.Plot No.48, Bhagyoday Nagar,
Ambad road, Dist. Jalna. **...Applicant**

VERSUS

1) **The Chairman**
Jalna & Badnapur Taluka, Z.P. Shikshak
Sahkari Patsanshta Maryadit, Jalna,
Office : Plot No. 59, Near Railway Flyover,
Bhagyanagar, Old Jalna-431203.

2) **The Manager**
Jalna & Badnapur Taluka, Z.P. Shikshak
Sahkari Patsanshta Maryadit, Jalna
Office : Plot No. 59, Near Railway Flyover,
Bhagyanagar, Old Jalna-431203.

3) **The Secretary**
Jalna & Badnapur Taluka, Z.P. Shikshak
Sahkari Patsanshta Maryadit, Jalna
Office : Plot No. 59, Near Railway Flyover,
Bhagyanagar, Old Jalna-431203. **...Respondents.**

Claim :- Application under Section 7(4) of the Payment of Gratuity Act, 1972 (hereinafter referred to as "Gratuity Act").

Appearance :-

Advocate for the Applicant : **Mr. A. V. Mundada.**

Advocate for the Respondents : **Mr. K. J. Suryawanshi.**

JUDGMENT

(Delivered on 01/08/2026)

(Pronounced and dictated in open Court)

In brief Applicant's case is as under :-

The Applicant has submitted that the respondent i.e. Zilla Parishad Shikshak Sahakari Patsanstha Maryadit is a co-operative credit society for teachers, specifically those associated with Zilla Parishad in the Jalna District. The respondent No. 1 is Chairman, respondent No. 2 Manager, respondent No. 3 is Secretary of the Patsanstha. The Applicant joined service of respondent on 20/02/1992 as Junior Clerk. He had been working continuously with the Respondents till the date of superannuation on 30/06/2024.

2] The past service record of the Applicant was clean and unblemished. He had never received any show cause notice, memo or charge-sheet during his entire service. The Applicant came to be superannuated on 30/06/2024. He was in acute need of money therefore, he continuously pursuing for the payment of his retirement benefits and gratuity amount. The respondent has paid an amount of Rs. 8,43,375/- (in words Eight Lakh Forty Three Thousand Three Hundred Seventy Five Only) to the Applicant towards gratuity by cheque No. 012515 dated 22/10/2024 drawn on The Jalna District Central Co-Operative Bank Ltd. The Respondents have paid the aforesaid amount without mentioning any calculation.

3] The Applicant had rendered almost 32 years and 04 months of his continuous service with the Respondents. As such he is entitled to the gratuity amount as per the Provisions and calculations of Payment of Gratuity Act, 1972 as under :-

Basic Wages + Dearness Allowance / 26 X 15:

Rs. 51,900/- + 25,950/- / 26X15 = 44,913/- Per Year

Total Year of Service X Gratuity per year :

32 Years 04 months 10 Days X Rs. 44,913/-= Rs. 14,53,394/-

4] The Applicant has submitted an application under Rule 7(1) of the Payment of Gratuity Act dated 03/03/2025 to the Respondents and claimed difference amount of Rs. 6,10,019/- (in words Six Lakh Ten Thousand and Nineteen Only). After excluding the aforesaid given amount of Rs. 8,43,375/-. On 05/03/2025 the Respondents denied claim of Applicant in its reply notice and contended that the amount given towards gratuity is correct. The Respondents had given the aforesaid amount of gratuity of Rs. 8,43,375/- on

22/10/2024 by forcibly obtaining signature on consent letter. As per the calculations provided in the service rules and regulations of the Respondents society the Applicant is entitled to the gratuity amount as follows :-

Basic Wages + Dearness Allowance / 26 X 30:

Rs. 51,900/- + 25,950/- / 26X30 = 89,826.92/- Per Year

Total Year of Service X Gratuity per year :

32 Years 04 months 10 Days X Rs. 89,826.92= Rs. 29,06,818/-

5] The Applicant has legal rights to get the gratuity amount as per law. The Respondents are legally bound to pay the amount of gratuity within 30 days from the date of superannuation. The act of refusal to pay gratuity amount is illegal and arbitrary. The cause of action is continuous and recurring arises from month to month. Hence, the case is within limitation. The Respondents may be directed to pay the difference amount of gratuity of Rs. 6,10,019/- with 18% interest per year from the due date till its realization, and / or the Respondents be directed to pay the difference amount of gratuity of Rs. 29,06,818/- with interest of Rs. 18% per annuam per year from the due date till its realization as per the service rules and regulations.

<u>The case of respondent's is as under :-</u>

6] The Respondents have filed their written statement at Exhibit C-4. The Respondents in their written statement contended that the application is not within limitation and therefore it is not maintainable. On 22/10/2024 the Applicant had received gratuity of Rs. 8,43,375/- by cheque No. 012515 without any objection. He had accepted the entire gratuity amount. After 05 months of receiving the amount he has file present application. The Respondents have calculated the gratuity amount as per Section 4(2) of the Payment of Gratuity Act, 1972. The last drawn salary of the Applicant was 51,900/- and his total service is of 32 years 04 months and 10 days. As per the said provision for every completed year services the employer shall pay gratuity at the rate of 15 days wages based on the rate of wages last drawn by the employee.

7] The Applicant was getting basic wages of Rs. 51,900/- per months, therefore, 15 days wages comes to Rs. 25,950/- X 32 years 04 months 10 days = 8,43,375/-. As per Section 4(3) of the Act the gratuity amount shall not exceed Rs. 10,00,000/-. On 20/02/1992 the Applicant was appointed as Junior Clerk and on 30/06/2024 he retired from service. The service rules of Respondents were framed in the year 1990 and Applicant is governed by those service rules. As per those service rules the Applicant was entitled for 10 months salary. If the gratuity amount is calculated as per those rules it comes to Rs. 5,19,000/- only.

8] The service rules of Respondents are amended in the year 2023 and those rules are not applicable to the Applicant and therefore, he cannot claim gratuity on the basis of the rules amended in the year 2023. The calculations in gratuity amount given in para No. 5 and 8 of the application are wrongly calculated. While calculating monthly wages for the purpose of gratuity dearness allowance not to be added in the monthly wages. The Applicant has added D.A. in basic wages and wrongly calculated gratuity amount. The application is not maintainable. The Applicant has filed present application after thought and getting entire amount of gratuity. The application is devoid of merits and liable to be rejected.

9] The issues are framed below Exhibit O-3 are reproduced below. I recording for my findings for reasons as under :

ISSUES			**FINDINGS**
1)	What is the correct amount of the gratuity of the Applicant?	:	In the Affirmative. The correct amount of gratuity is Rs. 14,37,231/-
2)	Is the Applicant entitled to difference of gratuity? If yes, what is the amount ?	:	In the Affirmative. The difference amount is of Rs. 5,93,856/-
2)	Is the Applicant entitled to interest? If yes, at what rate ?	:	In the Partly Affirmative. @10% per annum.
3)	What order?	:	As per final Order.

:: REASONS ::

ISSUE NO. 1 :-

10] This issue is about what is correct gratuity amount. As per the pleading of Applicant and written statement of

Respondents, the service period and last drawn salary of Applicant are admitted facts. As per the averments of Applicant the amended service rules of 2024 are applicable to him, on the contrary Respondents contended the Applicant is governed by service rules of 1990. The Respondents disputed the calculations of gratuity amount given by the Applicant. Considering rival contentions of both parties it is necessary to discuss the oral and documentary evidence of both the parties.

11] The Applicant has examined himself at Exhibit U-6. He relied on the document evidence of Appointment Order at Exhibit U-7, Copy of Statement of wages at Exhibit U-8, Copy of service rules and regulations of Respondents Society at Exhibit U-9, Copy of letter given by respondent No. 2 to District Deputy Registrar at Exhibit U-10, Copy of letter along with cheque No. 012515 at Exhibit U-11, Notices under Rules 7(1) of Payment of Gratuity Act, and copy of the reply by respondent No. 2 at Exhibit U-13. The Applicant has filed evidence close pursis at Exhibit U-15.

12] The Respondents have filed affidavit of chief examination of Shri. Dnyaneshwar Shivaji Maratha as C.W. 1 at Exhibit C-11. The Respondents relied on copy of letter dated 10/10/2024 at Exhibit C-9, Copy of service rules of the year 1990 at Exhibit C-7, Copy of proposal submitted by the Applicant at Exhibit C-8. The Respondents have filed evidence close pursis at Exhibit C-13.

13] Learned Advocate for Applicant has filed written notes of argument at Exhibit U-18. He has submitted that respondent has admitted in his evidence that at the time of appointment of Applicant service Rules of 1990 Exhibit U-9 have come into effect on 28/02/2022 and the said rules have been sanctioned by District Deputy Registrar, Co-operative Societies w.e.f. 07/02/2023. The Respondent's witness Dnyaneshwar C.W.1 also admitted that the Service Rules of 2022 are applicable to the Applicant. As per his testimony the proposal for amendment of service rules was sent to the District Registrar Co-operative Societies on 07/09/2024 and the approval was received on 07/10/2024. As per the said rules it is mandatory to pay gratuity to the employees. The said rules have been amended after the superannuation of the Applicant.

14] Learned Advocate for Respondents has filed written notes of argument at Exhibit C-14. He has submitted that as far as first issue is concerned, admittedly there are three employees in Respondents' society and it is admitted by the Applicant in his cross-examination. As per Section 1(3)(b) & (c) of the Payment of the Gratuity Act 'the Act shall apply to establishment in which ten or more persons are employees'. In this case there are three employees therefore, the Provisions of Payment of Gratuity Act are not applicable. The Applicant himself admitted the document Exhibit C-8 in his cross-examination. The Applicant is relying on the Service Rules Exhibit U-9. However, those rules are amended by respondent Society by General Body Meeting dated 11/08/2024. As per those rules the gratuity amount of Rs. 8,43,375/- is paid to the Applicant on 22/10/2024. The amended service rules Exhibit U-9 are not in consistant to the provisions of the Act and rules, therefore, the respondent society immediately amended those rules and got approval to the amended rules on 07/10/2024 which is at Exhibit C-9. The entire service of Applicant is governed by service rules framed in the year 1990 which are at Exhibit C-7. Considering the provisions of Gratuity Act and service Rules of society Exhibit C-7 and C-9 the application deserves to be rejected.

15] The Applicant has filed affidavit of his chief-examination at Exhibit U-6. He reiterated the contents of his application in his affidavit, therefore, I do not reproduce it to avoid repetition. The Applicant admitted in the cross-examination that when he joined services of the respondent society the services Rules of 1990 were applicable. There were five employees including him in the society. He is not aware that the service rules have been approved on 07/10/2024. The approval was given to the corrected service rules.

16] It has come in the testimony of Applicant that he has recorded his objection in respect of gratuity amount to the Chairman of the society. He raised objection that respondent implemented new service rules and he should be paid gratuity as per the new rules and also by the provisions of Payment of Gratuity Act. On 04/03/2025 respondent society received notice Exhibit U-12.

17] The Applicant in support of his oral evidence has filed documentary evidence at Exhibit U-7 to U-13. The appointment letter issued by of respondent society dated 23/04/1993 is at Exhibit U-7. As per the said rules the terms and conditions as accepted by the respondent society will be applicable to the employees. The Applicant has filed his salary certificate in which the basic pay is Rs. 50,400/-, dearness allowance is of Rs. 23,184/-.

18] The Applicant has filed service rules of 2022 at Exhibit U-9. On the perusal of the Rules it appears that the condition of payment of gratuity is mandatory for the respondent society. As per said rules "In the Co-operative society in which the employees which are ten in number or more or the employees who are on duty for one day in preceding 12 months, shall be entitled for gratuity". The employee shall complete term of five years and he should remain present on the work at least for 240 days. The last drawn salary shall be considered for the payment of gratuity. It shall also include basic pay along with dearness allowance. The formula for calculation of gratuity is given as under :-

Gratuity = Salary X 30 X completed service / 26

19] The Applicant has produced a letter issued by Manager of respondent society to District Deputy Registrar Co-operative Society in which it is mentioned that there are less than 10 employees in the respondent society and therefore, there is confusion about amount of gratuity to be given to the Applicant. Therefore, the guidance may be given about the payment of gratuity. The letter issued by Manager to Branch Manager of Jalna District Central Co-operative Bank is produced at Exhibit U-11 in which the directions are given to the bank to honour the cheque No. 012515 for the payment of gratuity.

20] The Applicant has produced the application Form "I" at Exhibit U-12, on perusal it reveal that on 03/03/2025 the Applicant has submitted application and he has given calculation of gratuity amount. As per his application the total amount of gratuity comes to Rs. 14,53,394/-. The amount paid is Rs. 8,43,375/- and the remaining amount of Rs. 6,10,019/- is to be paid by the society.

21] The Respondents have examined Shri. Dnyaneshwar Shivaji Marathe on their behalf. He reiterated the contents of of written statement in his affidavit of chief-examination. I do not reproduce the contents to avoid repeatation. He has produced authority letter Exhibit C-12 on record. As per his testimony he is working as Manager in the respondent society from 22/09/2024. He admitted in his evidence that the amount of gratuity has been calculated as per Section 4/4 (2) of the Payment of Gratuity Act. On 30/06/2024 the Applicant is superannuated. His total tenure of service is 32 years 04 months and 10 Days. The service rules of 1990 were applicable at the time of appointment of Applicant. On 28/02/2022 the service rules Exhibit U-9 have come into effect. On 07/10/2024 the Deputy Registrar Co-operative society has sanctioned said rules Exhibit C-9. As per appointment order Exhibit U-7 the rules and regulations adopted by the respondent society from time to time will be applicable to the Applicant.

22] It has come in the testimony of Dnyaneshwar that service rules of 2022 are applicable to the Applicant. The service rules were amended after superannuation of the Applicant. In the amendment rules it is mentioned that it is mandatory to pay gratuity to employees. There are provisions that last monthly drawn basic wages and dearness allowance shall be considered for the calculation of gratuity as per the amended service rules of 2022 and 2024. He admitted that the contents of para No. 9 of the written statement "while considering monthly wages for the purpose calculation of gratuity, dearness allowance cannot be added in the monthly wages are incorrect. He will have to check whether there is increased in ceiling limit of gratuity amount as per Central Government Rules. The gratuity is paid as per the Rules of respondent society. He admitted that 30 days wages will be considered for the purpose of gratuity as per rules of 2022.

23] The Respondents have produced notification No. W-02/0020/2018 DPE (WC)-GL-XII/18 dated 11/04/2018 issued by Government of India. As per the said notification the amount of Gratuity payable to an employee under the Act shall not exceed Rs. 20,00,000/-. The Respondents have produced the copy of letter issued by District Deputy Registrar Co-operative society at Exhibit C-9. On the perusal of said letter it appears that he has approved the service rules of respondent society on 07/10/2024. The District Deputy Registrar has mentioned that the effect of the Rules shall be given from the date of approval of Rules. It means that from 07/10/2024 the Rules shall be implemented. On 30/06/2024 the Applicant is superannuated and therefore, the service Rules of 2024 shall not be applicable to the Applicant.

24] The Respondents have produced application at Exhibit C-8 submitted by the Applicant to respondent. On the perusal of the said application, it appears that on he has submitted proposal for the payment of gratuity. As per the written notes of argument of Respondents at Exhibit C-14, the maximum amount of gratuity is 10 months salary for having service more than 21 years. The Respondents have not filed documentary evidence to show that the maximum gratuity amount is 10 months salary.

25] The Applicant has disputed the amount of gratuity which is paid to him. As per his averments the service rules of 2022 and 2024 are applicable to him. On the contrary it is the contention of Respondents that the amount of gratuity is paid to the Applicant as per service rules of the year 1990 when the Applicant joined his services. The Respondents have admitted the basic pay and dearness allowance as given by the Applicant in their written statement. Considering the oral and documentary evidence it is necessary to discuss, whether the Applicant shall be governed by the amended Service Rules of 1990 or the provision of Payment of Gratuity Act. Therefore, it is necessary to discuss the provisions of Payment of Gratuity Act.

26] The Respondents have produced Service Rules of the year 1990 of the Respondents society, are produced at Exhibit C-7. As per the said rules the gratuity shall be paid to the employees by considering last drawn basic pay and dearness allowance and the period of service.

27] The Service Rules of the year 2022 Exhibit U-9 are amended in the year 2024. On 07/10/2024 approval to Service Rules of the year 2022 was given by District Deputy Registrar. On 30/06/2024 the Applicant is superannuated. Therefore, the Applicant is not entitled for the gratuity as per Service Rules 2024. He shall be governed by service rules of 1990.

28] As per Section 7(3) of Gratuity Act- Last drawn basic pay, dearness allowance and service period has to be considered. As per the formula given in Section 7(3) of Gratuity Act for calculation of gratuity is as under:

=77850X15X32/26 = 14,37,231/-

29] The Applicant is entitled to the gratuity amount of Rs. 14,37,231/-. The Respondents have paid Rs. 8,43,375/-. The remaining amount of Rs. 5,93,856/- is due from the Respondents towards the difference amount. In view of above reasons, I answer issue No. 1 in the affirmative.

ISSUE NO. 2 :-

30] This issue is in respect of entitlement of Applicant of difference amount of gratuity. Leaned Adv. For the Respondents has submitted that as far as second issue is concerned the Applicant himself prepared the proposal Exhibit C-8 and submitted it to the Chairman of respondent society and thereby calculated the amount of gratuity of Rs. 8,43,375/-.

31] As per the formula of calculation of Gratuity given under Payment of Gratuity Act, the gratuity has to be calculated. The Respondent has calculated his gratuity amount his last drawn salary +D.A X 32 therefore he had given the amount of Rs. 8,43,375/-. Though he has given the said amount, but as per Service Rules of 1990 which are applicable to the Applicant, he is entitled to the difference amount of Rs. 5,93,856/-. Accordingly I answer issue No. 2 in the affirmative.

ISSUE NO. 3 :-

32] The Applicant has claimed the interest at the rate of 18% per annum on the remaining amount. This issue is in respect of entitlement of interest on the difference amount of gratuity. Learned Adv. For the Applicant has submitted that As per Section 7(3) of the Gratuity Act, gratuity must be paid within 30 days from the date it becomes payable. On 30/06/2024 the Applicant retired and on 22/10/2024 the gratuity was paid. Therefore, as per Section 7(3A) of The Payment of Gratuity Act, the Applicant is entitled for interest from the date the gratuity becomes payable to the date on which it is paid. On 30.06.2024 the Applicant is superannuated and on 22.10.2024 the amount of Rs. 8,43,375/- is paid to him. As per notification of Central Government issued on 01/10/1987 wherein the Government has given direction about simple interest for long term deposit prescribed by RBI should be considered. Therefore, Applicant is entitled for the interest on the amount of gratuity of Rs. 8,43,375/- from 30.06.2024 to 22.10.2024 at the rate of 10% per annum (simple interest) and interest at the rate of 10% per annum (simple interest) on the remaining difference amount of Rs. 5,93,856/- from 30.06.2024 till actual realization of the gratuity amount. For the reasons I answer issue No. 3 partly in the affirmative.

ISSUE NO. 4 :-

33] As I answer issue Nos. 1 and 2 in the affirmative and issue No. 3 in partly affirmative in answer to issue No. 4, I pass following order.

ORDER

(1) The application is partly allowed.

(2) The Respondent Society is hereby directed to pay interest on the amount of gratuity of Rs. 8,43,375/- from 30.06.2024 to 22.10.2024 at the rate of 10% simple interest per annum.

(3) The Respondent Society is hereby directed to pay remaining amount of gratuity Rs. 5,93,856/- (Rupees Five Lakh Ninety Three Thousand Eight Hundred Fifty Six Only) to the Applicant together with interest at the rate of 10% per annum (simple interest) from 30.06.2024 till actual realization of the said entire amount of gratuity to the Applicant.

(4) Notice in Form 'R' to the Respondents employer.

Digitally signed by
CHHAYA VIKRAM
SHIRSAT
Date: 2026.08.01
17:02:33 +0530

(C. V. Shirsat)

Place: Jalna
Date : 01/08/2026

Controlling Authority under
Payment of Gratuity Act & Judge,
Labour Court, Jalna.

Argued on	:-	28.07.2026
Judgment dictated on	:-	01.08.2026
Judgment checked & signed on	:-	01.08.2026