

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7218 OF 2012

Mohd. Jiyauddin s/o Mohd. Ibrahim ...Petitioner

VERSUS

The Parbhani Municipal Corporation ...Respondent

.....
Mr. M.V. Ghatge, advocate for Petitioner
Mr. S.S. Bora, advocate for Respondent
.....

**CORAM : MOHIT S. SHAH, C.J. &
V. K. JADHAV, J.**

DATE : 28TH AUGUST, 2015

ORDER:-

1. This petition is filed under Article 226 of the Constitution of India. The Petitioner has prayed for directions to the Respondent-Parbhani Municipal Corporation to pay retiral benefits due and payable to Mohd. Gayasuddin Mohd. Ibrahim, who was the elder brother of the present Petitioner.

2. Mohd. Gayasuddin Mohd. Ibrahim was working as Wireman under the Respondent Municipal Corporation and as per office order dated 11.2.2008 he was permitted to retire from service. On 28.2.2008 Mohd. Gayasuddin Mohd. Ibrahim had made an

application for withdrawal of amount towards his Provident Fund and also requested for early payment of retiral benefits like gratuity etc. In the pension papers of Mohd. Gayasuddin, present petitioner Mohd. Jiyauddin, was mentioned as nominee for all the benefits. It appears that some amounts were paid to Mohd. Gayasuddin but balance amount remained due and payable.

3. It also appears that though Mohd. Gayasuddin made several representations during the period from 2008 to 2010 to the Chief Officer of Parbhani Municipal Council, the Municipal Council was in financial difficulties and therefore, the Municipal Council had prepared a seniority list of retired employees so as to pay them the amounts towards their retiral dues.

4. Unfortunately, Mohd. Gayasuddin expired on 19.1.2012. The Petitioner thereafter, filed the present writ petition and also made representations to the Respondent-Municipal Corporation.

5. The learned counsel for the Municipal Corporation, under the instructions, states that the balance amount due and payable to the Petitioner will be paid by 30th September, 2015 to the Petitioner Mohd. Jiyauddin, as arrears of retiral benefits, but the Petitioner should give indemnity bond within two weeks from today.

6. The learned counsel for the Respondent-Municipal Corporation makes it clear that the amount due and payable would be only in respect of those amounts which were due and payable to Mohd. Gayasuddin Mohd. Ibrahim till his death i.e. 19.1.2012 and that the Petitioner, being the brother of deceased, is not entitled to receive the amount of family pension.

7. The writ petition is accordingly disposed of after recording the above statement made by the learned counsel for Respondent-Municipal Corporation.

V. K. JADHAV, J.

CHIEF JUSTICE

rlj/