

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

WRIT PETITION NO. 1870 OF 2018

Shaikh Mushtaque Ahmed Kasam Qureshi ..PETITIONER

VERSUS

State of Maharashtra and Another ..RESPONDENTS

**WITH
WRIT PETITION NO. 1880 OF 2018**

Prakash Dhannulal Kurliye ..PETITIONER

VERSUS

State of Maharashtra and Another ..RESPONDENTS

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Mr. S.S. Jadhavar, Advocate for petitioners.

Mr. S.B. Joshi, A.G.P. for respondent – State.

Mr. V.S. Bedre, Advocate for respondent no.2.

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**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATED : 12th DECEMBER, 2018

ORDER :

Mr. Jadhavar, the learned Counsel for the petitioners submits that the petitioners have retired on 31st March, 2017 and 30th June, 2017 respectively. Except gratuity amount paid to the petitioners after filing of the petitions, the other retiral benefits such as leave encashment benefit, arrears as per 6th Pay Commission, D.A., benefit of time bound pay and commutation of pension have not been paid.

2. Mr. Bedre, the learned Counsel Respondent No.2 submits that because of the weak financial condition of the Municipal Corporation, the arrears of 6th Pay Commission, leave encashment benefit, D.A. and benefit of time bound pay have not been paid to many such employees. A policy decision has been taken in the year 2005 for not paying commutation of pension.

3. The Apex Court has time and again held that pension is not bounty but hard earned property of a retiree. The respondents are duty bound to pay the entire retiral benefits at least within six months from the date of retirement.

4. Considering the ground of weak financial condition being pleaded by Respondent No.2 – Municipal Corporation, we pass the following order :-

(I) Respondent No.2 – Municipal Corporation shall pay the petitioners the difference of arrears towards 6th Pay Commission, D.A., benefit of leave encashment expeditiously within a period of six months from today.

(II) As and when the Municipal Corporation takes decision to make payment of commutation of pension, such benefit shall also be extended to the petitioners.

(III) We have considered this request as it is submitted that regular pension is being paid properly.

(IV) With these directions, both the writ petitions are disposed of. No costs.

(R.G. AVACHAT, J.)

(S.V. GANGAPURWALA, J.)

SSD