

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

32 WRIT PETITION NO. 9641 OF 2017

KAMRUNNISA ZIYAUDDIN KAZI
VERSUS
THE COMMISSIONER JALGAON CITY MUNICIPAL CORPORATION
JALGAON AND ANOTHER

...

Advocate for Petitioner : Mr. Shaikh Mohammad Naseer A
Mr. Patil Pradip R. And I.A.Chandorikar For R/1 & 2

...

CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.

DATE : JUNE 19, 2018

O R D E R :

Mr. Shaikh Naseer, learned counsel for the petitioner submits that the petitioner retired on attaining the age of superannuation on 31.01.2014. The petitioner is entitled for the gratuity of Rs.3,45,120/-. However, the petitioner was paid only half amount of gratuity. An amount of Rs.1,72,560/- was retained by the respondent and same was not paid. The petition is filed for payment of the said amount along with interest.

2. The learned counsel submits that during the pendency of writ petition, on 22.05.2018 the amount of Rs.1,72,560/- has

been paid to the petitioner, however, the amount with interest has not been paid.

3. Mr. Patil, learned counsel for the respondent corporation submits that the financial condition of the respondent is not good. The respondent is facing financial crisis, as such could not pay the entire gratuity amount, and as and when the fund was available the respondent has paid gratuity to the petitioner. The learned counsel submits that, the financial condition of the respondent corporation is bad.

4. We have considered the submissions, the retiral benefit is not bounty but hardened money of the employee. The employee is entitled for retiral benefit immediately. It would appear that the respondent had paid half of the gratuity amount on the day the petitioner had retired, however had not paid an amount of Rs.1,72,560/- which the petitioner is legitimately entitled to.

5. It appears and we have observed in number of matters, the financial condition of the respondent corporation is not good and the amount payable to number of retired employees is outstanding.

6. Considering the above, we would balance the equity by passing following order :

ORDER

The respondent corporation shall pay interest at the rate of 6% per annum to the petitioner from 1.8.2016 till 21.05.2018 on an amount of Rs.1,72,560/-, within a period of three months from today.

7. Writ Petition accordingly stands disposed of. No costs.

[**SUNIL K.KOTWAL, J.**] [**S.V.GANGAPURWALA, J.**]

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