

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.354 OF 2018

Waman Shankar Landge ... Petitioner

versus

Municipal Corporation of Greater Mumbai ... Respondent

Ms. Vidhula S. Patil, for Petitioner.

Ms. Pratibha Shelke with Ms. Sheetal Metakari, for Respondent.

Mr. Waman S. Landge, Petitioner present.

**CORAM: AKIL KURESHI &
S.J. KATHAWALLA, JJ.**

DATE: 18th JULY, 2019

P.C.:

1. The Petitioner is an ex-employee of the Municipal Corporation of Greater Mumbai. He was initially engaged as a Security Officer. During his service, he was faced with the departmental chargesheet, which resulted into punishment of withholding of an increment with permanent effect. His appeal against the order of punishment failed. He crossed the age of superannuation on 31st December, 2010. The Respondent did not grant final pension on the ground that while he was in service, a criminal case for offences punishable under Section 420, 408, 418 read with Section 34 of the Indian Penal Code, was instituted against him. The department

therefore, granted provisional pension. The Petitioner's request for commutation of the pension was rejected. Hence this Petition.

2. We are informed that the Petitioner had raised industrial dispute for non releasing of the gratuity. In the present Petition, we are only concerned with the Petitioner's request for commutation of pension.

3. Having heard the learned Counsel for the parties, we notice that in terms of Rule 14B of the Pension Rules of the Corporation, in view of the pendency of the criminal case instituted while the employee was in service, it is open for the department not to finalize his pension. As a corollary, till the pension is finalized, the Petitioner cannot claim commutation of pension. His request for granting commuted pension is therefore, not justified.

4. During the course of the arguments, both the sides have some doubts about the quantum of provisional pension. Learned Counsel for the Petitioner submitted that according to the Petitioner's information, the department has slashed his provisional pension by 40% which is the commutation component. Prima facie it would appear that if the Department has not allowed the commutation of the pension, the deduction from his pension availability of such commuted value of the pension would not be permissible. However, no facts are presented before us for final opinion, nor there is any prayer in this respect. If the Petitioner has any grievance with respect to this, it would be open for the Petitioner to bring to the notice of the authorities and

if the grievance remains unresolved, to take further steps as available in law. With these observations, the Writ Petition is disposed of.

(S.J.KATHAWALLA,J.)

(AKIL KURESHI,J.)