

Basavraj
G. Patil

Digitally signed by
Basavraj G. Patil
Date: 2021.03.12
11:36:40 +0530

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

1.WRIT PETITION NO.291/2021

Suresh Ananda Pawar Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

2.WRIT PETITION NO.293/2021

Ashok Raghunath Panchal Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

3.WRIT PETITION NO.294/2021

Vijay Baban Badhe Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

4.WRIT PETITION NO.303/2021

Subodh Digambar Revankar Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

5.WRIT PETITION NO.304/2021

Sadanand Goyal Shetye Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

6.WRIT PETITION NO.305/2021

Sumant Sirmokadam Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

7.WRIT PETITION NO.331/2021

Shirish Ketkar Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

8.WRIT PETITION NO.332/2021

Nitin Raoji Joshi Petitioners

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

9.WRIT PETITION NO.333/2021

Sharad Amrut Sawant Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

10.WRIT PETITION NO.338/2021

Satish Vamanrao Mahajan Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

11.WRIT PETITION NO.339/2021

Naresh Yeshwant Vichare Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

12.WRIT PETITION NO.342/2021

Suryakant Vishnu Panchal Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

13.WRIT PETITION NO.343/2021

Uday Tayshete Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

14.WRIT PETITION NO.345/2021

Geeta Vinod Sawant Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

15.WRIT PETITION NO.346/2021

Ekknath Jairam Gawade Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

16.WRIT PETITION NO.349/2021

Manohar Narsinha Samant Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

17.WRIT PETITION NO.352/2021

Ravindranath Keshav Magare Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

18.WRIT PETITION NO.354/2021

Milind Deorukhkar Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

19.WRIT PETITION NO.355/2021

Anil Vinayak Kamble Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr.

..... Respondents

20.WRIT PETITION NO.356/2021

Prashant Laxman Mhatre

..... Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr.

..... Respondents

21.WRIT PETITION NO.358/2021

Nitin Virkar

..... Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr.

..... Respondents

22.WRIT PETITION NO.359/2021

Chandrashekhar Lahu Desai

..... Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr.

..... Respondents

23.WRIT PETITION NO.360/2021

Dayanand Surve

..... Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr.

..... Respondents

24.WRIT PETITION NO.364/2021

Vijay Anna Sagare Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

25.WRIT PETITION NO.365/2021

Sharad Kulkarni Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

26.WRIT PETITION NO.388/2021

Shyam Narayan Kulkarni Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

27.WRIT PETITION NO.392/2021

Kishore Ambadas Karode Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

28.WRIT PETITION NO.473/2021

Arvind Shankar Bhor Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr.

..... Respondents

29.WRIT PETITION NO.479/2021

Dhanaji Tukaram Ardalkar

..... Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr.

..... Respondents

30.WRIT PETITION NO.487/2021

Chhagan Ramu Dadas

..... Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr.

..... Respondents

31.WRIT PETITION NO.515/2021

Abhay Janardan Shelar

..... Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr.

..... Respondents

32.WRIT PETITION NO.539/2021

Rajan Shankar Walvekar

..... Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr.

..... Respondents

Mr. Kiran S. Bapat a/w. Mr. Jayesh Desai I/b. M/s. Desai & Desai Associates for the Petitioners

**CORAM: K.K.TATED &
RIYAZ I. CHAGLA, JJ.**

DATED : MARCH 10, 2021

P.C.

1 Rule.

Rule is made returnable forthwith by consent of both the parties.

2 Heard. By these Petitions under Article 226 of the Constitution of India, the Petitioners are seeking directions against the Respondents to release their retirement dues as per the final bill prepared and accepted by the Respondents with interest 18% p.a. The Petitioners also claim their dues as against the unpaid Leave Travel Concession.

3 The learned counsel for the Petitioners submits that in all these matters, the Petitioners were working with the Respondent BEST Undertaking. He submits that all these Petitioners have retired from their services, long back. He submits that though the final bills are prepared and accepted by the concerned Department of the Respondents, they have failed and neglected to release the said amount in favour of the Petitioners. Hence, the Petitioners had made representations to the General Manager, BEST Undertaking on 29.10.2019 and to the Commissioner, Municipal Corporation of Greater Mumbai on 04.09.2020 for payment of outstanding final bills of superannuated employees of the

BEST Undertaking. He submits that neither the Respondents have paid the said amount nor decided their Application on merits. He submits that in any case, the final bills are already prepared by the concerned Department. Hence, they may be directed to release the same immediately. The learned counsel for the Petitioners submits that as per the Administration Order No.97 dated 20.01.1992 issued by the BEST Undertaking, the payment of final dues (salary, wages, provident fund, gratuity etc.) is required to be paid within 15 days. Paragraph 1 of the said administration order reads thus:

“It is observed that the final dues (Salary / Wages, Provident Fund, Gratuity, etc.) to the nominees / legal heirs in case of deceased employees or to the members of staff separated from the services of the Undertaking (Salary / Wages, Provident Fund, Gratuity, etc.) as the case may be, are not being paid within the prescribed time limit of 15 days.”

4 The learned counsel for the Petitioner submits that in spite of there being an administration order No.97 and though the final bills are already prepared, the concerned Department of the Respondents is not releasing the due amount to the Petitioners. Hence, the Petitioners have filed the present Writ Petitions seeking directions against the Respondent to release their retirement dues.

5 On the other hand, the learned counsel for the Respondent No.2 - BEST Undertaking submits that as on today, their liability is more than Rs.2903.97 Crores. He submits that the ex-employees' dues i.e. gratuity and final bill comes to Rs.635.17 Crores. Therefore, there is delay on

their part to make the payment.

6 It is to be noted that in the present proceedings the Petitioners are retired persons and they are entitled for their retirement dues. Not only that the final bills are already prepared by the concerned Department. Apart from that, as per the Administrative Order No.97 dated 20.01.1992 issued by Respondent No.2, the Respondents are supposed to clear the retirement dues within 15 days.

7 Considering these facts and the Petitioner's representations for release of their dues as stated hereinabove, we are of the opinion that the Petitioners have made out a case for allowing the Writ Petitions. However, whether the Petitioners are entitled for Leave Travel Concession benefits or not, is to be decided by Respondents within 30 days from the date of this order.

8 Hence, the following order is passed:

a. Respondent No.2 shall clear the Petitioner's retirement benefits as per the final bills prepared by their Department, as early as possible, but in any case, on or before 09.04.2021.

b. If there is delay on the part of Respondent No.2 to clear their dues on or before 09.04.2021, Respondent No.2 will have to pay interest @ 9% p.a. from the due date.

c. Respondent No.2 is directed to decide the Petitioner's entitlement of the Leave Travel Concession, if any, within 30 days from the date of this order and intimate the decision thereon to the Petitioner, in writing.

d. Rule is made absolute in all the Writ Petitions accordingly.

e. All the Writ Petitions stand disposed of accordingly.

f. No order as to costs.

(RIYAZ I. CHAGLA, J.)

(K.K.TATED, J.)