

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

**WRIT PETITION NO. 902 OF 2018**

Narayan Tukaram Pawar  
and others

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

Mr. Bhagwan V. Thombre, Advocate for the Petitioners.

Mr. P. N. Kutti, AGP for Respondent Nos. 1 to 3.

Mr. S. T. Shelke, Advocate for Respondent No. 5.

**CORAM : S. V. GANGAPURWALA &  
S. G. DIGE, JJ.**

**DATED : 26<sup>th</sup> FEBRUARY 2022.**

**PER COURT:-**

. The petitioners claim salary for the period as detailed in the writ petition, so also the benefit of gratuity, provident fund, pension etc.

2. Mr. Thombre, learned counsel for the petitioners submits that all these petitioners were employees of the erstwhile Grampanchayat. The erstwhile Grampanchayat merged in a smaller urban area i.e. respondent No. 4 – Nagar Panchayat. After merger of the Grampanchayat in a smaller urban area the petitioners became the employees of the Nagar Panchayat and retired as employees of the Nagar Panchayat. They are entitled for arrears of salary, pension,

gratuity, provident fund and all retiral benefits as admissible.

3. The learned counsel to substantiate his contention submits that the petitioners continued to work even after formation of Nagar Panchayat and placed reliance upon the communication issued by the Block Development Officer, Panchayat Samiti, Akole.

4. Mr. Shelke, learned counsel for respondent No. 5 submits that the sanctioned posts with the Grampanchayat wherein the petitioners were working were 6, however, the Grampanchayat appointed 45 persons. The petitioner Nos. 2, 4 and 5 retired prior to formation of smaller urban area. The petitioner No. 1 retired on 31.05.2015 and petitioner No. 3 retired on 31.03.2017. The petitioner No. 1 hardly worked for less than two months and petitioner No. 3 hardly worked for 25 days only after formation of smaller urban area and salary came to be paid. The learned counsel further submits that the petitioners are not entitled for any benefit.

5. We have considered the submissions canvassed by learned counsel for respective parties.

6. Considering the age as demonstrated by the Chief Officer in its affidavit, the petitioner Nos. 2, 4 and 5 had completed 60 years of age before formation of smaller urban area and they had retired prior to

formation of the Nagar Panchayat. It is stated on affidavit that petitioner Nos. 1 and 3 have worked hardly for two months and 25 days respectively. The service rendered with the Grampanchayat is not a pensionable service. It is also contended by the learned counsel for respondent - Nagar Panchayat that the petitioners have been paid with the provident fund amount. It is further submitted by the respondent that the petitioners are not entitled for gratuity.

7. Be that as it may, for the claim of gratuity the petitioners may approach the authority under the Payment of Gratuity Act. The same can be considered on merits by the authority under the Payment of Gratuity Act.

8. With these aforesaid observations, writ petition is disposed of.  
No costs.

( S. G. DIGE )  
JUDGE

( S. V. GANGAPURWALA )  
JUDGE

PS.B.