

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 4878 of 2022

Gurucharan Kanhaiyya Tank
Age – 50 yrs., Occ. Retired,
R/o. New Athavadi Bazar,
Mangrulpir, Tq. Mangrulpir,
Dist. Washim.

.... Petitioner

..VERSUS..

(1) Municipal Council, Mangrulpir
through its Chief Officer,
R/o. Mangrulpir, Tq. Mangrulpir,
Dist. Washim.

(2) Chairman, Municipal Council,
Mangrulpir, Tq. Mangrulpir,
Dist. Washim.

.... Respondents

Mr. P. S. Patil, Advocate for the petitioner
Mr. M. I. Dhattrak, Advocate for respondent 1

**CORAM : ROHIT B. DEO AND
Y. G. KHOBRAGADE, JJ.**

DATED : 17-2-2023

ORAL JUDGMENT : (Per : Rohit B. Deo, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally with
consent of learned counsel appearing for the parties.

3. The substantive prayer clause in the petition reads thus :

“(i) Issue direction to the respondents Municipal Council to release the remaining amount of gratuity i.e. Rs. 1,57,000/-, amount of leave encashment of Rs. 1,87,000/- arrears of 7th Pay-Commission and arrears revised pay-scale after completion of 24 years of service within a time bound period in the interest of justice.”

4. The Municipal Council has filed affidavit in response dated 3-2-2023. We may extract the relevant statements in the affidavit in response.

*“2. That so far as the question of payment of leave encashment is concerned, out of total amount of Rs. 1,87,200/-, Rs. 1,00,000/- has already been paid on 14.10.2022 i.e. during the pendency of the present petition and now only amount of Rs. 87,200/- is remained to be paid. So far as claim of gratuity is concerned, the entire amount of gratuity of Rs. 4,32,000/- is paid to the petitioner till date and nothing is remained to be paid. Copy of chart showing the details of payments made to the petitioner dated 02.02.2023 is annexed herewith and marked as **Annexure No. R1-1**.*

3. That, so far as the arrears of 7th Pay Commission is concerned, the Government has decided to pay the amount of arrears of 7th Pay Commission in instalments and two instalments have already been released by the Government in respect of arrears of 7th Pay Commission and the payment of two instalments is already made to the petitioner and other employees of Municipal Council, Mangrulpir. The answering respondent undertakes that as and when the grant is received from the State Government, immediately the said amount will be paid to the petitioner. The answering respondent on its

own cannot make the payment of 7th Pay Commission in view of the fact that there are several retiral dues of the other employees of Municipal Council Mangrulpir is yet to be paid. Therefore, the claim of arrears of payment of 7th Pay Commission is concerned; the same will be made after receiving the grant by instalments from the State Government.

4. That, so far as the claim of the payment of time bound pay scale after completion of 24 years of service is concerned, the said claim of the petitioner will be considered in accordance with law and if the petitioner is entitled for the same, the said claim will be paid to the petitioner. That, so far as remaining balance amount of leave encashment is concerned, the said payment will be made within a period of two months. Under such circumstances, the present petition may kindly be disposed of. Hence this submission.”

5. Learned counsel for the petitioner Mr. Patil submits, on the basis of instructions, that the grievance is sufficiently redressed for the time being and that the council may be directed to do the needful within two months in so far as payment of leave encashment is concerned.

6. We dispose of the petition by directing the Municipal Council, Mangrulpir to honour the assurances given in the paragraphs extracted supra and to further make the payment of leave encashment amount to the petitioner within the next two months.

7. The petition is allowed and disposed of in the aforestated terms.

(Y. G. Khobragade, J.)

(Rohit B. Deo, J.)

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