

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5763 OF 2024

SHABNOOR
AYUB
PATHAN
Digitally signed by
SHABNOOR AYUB
PATHAN
Date: 2024.05.09
17:47:31 +0530

The Commissioner
The Kolhapur Municipal Corporation ... Petitioner
V/s.
Prabhakar Shamrao Sutar ... Respondent

Mr. Sagar Ashok Mane, for Petitioner.

Ms. Pavitra Manesh i/by Mr. Saurabh Mandlik, for
Respondent.

CORAM : AMIT BORKAR, J.

DATED : MAY 9, 2024

P.C.:

1. The writ petition challenges an order dated 31 August 2017 passed by the Appellate Authority in Appeal (PGA) No.3 of 2017 arising out of order dated 21 March 2016 passed by the Controlling Authority.

2. The respondent, in execution of order dated 22 July 2013 passed in Application P.G.A.No.35 of 2005 directing the petitioner to pay various amounts detailed in the said order. An application filed under Section 8 of the Act before the Controlling Authority under the Payment of Gratuity Act, 1972. The petitioner contested the application by contending that an amount has contemplated by the original adjudication and the amount had already been paid to the original applicant.

3. The Controlling Authority in paragraphs 10 and 11 of its judgment dated 21 March 2016 has considered the entitlement of respondent to claim an amount as per the order dated 22 July 2013. Based on its calculation, it was held that the respondent was entitled to claim an amount referred in paragraph 11 of its order.

4. Learned Advocate of the petitioner submits that the respondent was not entitled to claim an amount under the provisions of Payment of Gratuity Act, 1972. However, once, the Authority under the Act adjudicate on entitlement of respondent to claim the amount and in view of such order having attained finality, the Controlling Authority while executing such order cannot consider entitlement of respondent to claim an amount of the gratuity as it is done in the present case.

5. Considering the reasons assigned and also considering the facts that the original order directing the petitioner to pay differences of the amount under the Act, such order had attained finality and in absence of an error in calculation of the amount as directed by the Authority in original adjudication, there is no legal infirmity in the order.

6. Hence, the writ petition accordingly stands dismissed. No costs.

(AMIT BORKAR, J.)