IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12221 OF 2024

Baburao Shankarrao Eklare and others
vs.
The State of Maharashtra and ors.

Ms.Priyanka Shinde, Advocate for petitioners
Mr.S.R.Yadav Lonikar, AGP for respondent no.1
Mr.R.K.Ingole, Advocate for respondent nos.2 and 3

CORAM : R.G.AVACHAT AND
SANDIPKUMAR C. MORE, JJ.
DATE : JULY 10, 2025

ORDER :-

A motion has been moved by learned counsel for the petitioners for modification of the order dated 30.04.2025, passed in this Writ Petition.

2. Learned counsel for the petitioners submits that this Court, vide order dated 30.04.2025, in paragraph 3, directed as under:-

> 3. ……..This Writ Petition is disposed with a direction to the respondent - Corporation to pay the petitioners all the arrears as per the recommendations of the Seventh Pay Commission, latest by December, 2025, failing which, the amount shall carry interest at the rate of 6% per annum, until the date of payment.

3. Learned counsel for the petitioners submits that the direction to pay the arrears of the Seventh Pay Commission, should have been along with interest at the rate of 6% per annum and not additional interest at the 6% in case of default. Learned counsel for the petitioners further prays for grant of interest on the delayed payment of amount of gratuity, the amount of commutation of pension and leave encashment.

4. As regards the first prayer of the petitioners for payment of arrears of the Seventh Pay Commission including 6% interest, we agree with same.

5. As regard another prayer for grant of interest on the delayed payment of amount of gratuity, the amount of commutation of pension and leave encashment, as the services of the petitioners were pensionable, on retirement, they were entitled to receive pensionary benefits. The rate of interest on the delayed payment of gratuity has been prescribed from time to time. For better appreciation, we propose to refer the relevant provisions in that regard. Section 8 of the Payment of Gratuity Act, 1972 reads thus:-

> "8. Recovery of gratuity.-
>
> If the amount of gratuity payable under this Act is not paid by the employer, within the

prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon [at such rate as the Central Government may, by notification, specify], from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto:

Provided that the controlling authority shall, before issuing a certificate under this section, give the employer a reasonable opportunity of showing cause against the issue of such certificate:

Provided further that the amount of interest payable under this section shall, in no case exceed the amount of gratuity payable under this Act.

6. Section 129-A of the Maharashtra Civil Services Rules, reads thus:-

129-A. Interest on delayed payment of gratuity.-

(1) Where the payment of retirement gratuity or death gratuity, as the case may be has been delayed beyond the period of three months from the date of retirement or death, and it is clearly established that the delay in payment was attributable to administrative lapse, an interest at the rate applicable to General Provident Fund deposits shall be paid on the amount of gratuity. in respect of the period beyond three months:

Provided that, no interest shall be payable if the delay in payment of such gratuity was

> attributable to the failure on the part of the Government servant, to comply with the procedure laid down in this Chapter:
>
> Provided further that no interest shall be payable in the case where a provisional gratuity is paid.

7. The notification issued by the Government of India, Ministry Finance, Department of Economic Affairs (Budget Division), dated 10.04.2023, prescribes that the accumulations at the credit of subscribers to the General Provident Fund and other similar funds, shall carry interest at the rate of 7.1% per annum.

8. In view of the above, we deem it appropriate to grant interest on the delayed payment of gratuity at the rate of 7.1 % per annum. Hence, the operative part of the order dated 30.04.2025 is modified as under.

> (i) The respondent – Corporation to pay the petitioners all the arrears as per the recommendations of the Seventh Pay Commission, including interest at the rate of 6% per annum from the date the amount became payable, latest by December, 2025.
>
> (ii) The respondent – Corporation shall pay the petitioners the amount of gratuity with interest at

the rate of 7.1% per annum, from the date the amount became payable to the date of payment.

(iii) The respondent – Corporation shall also pay the petitioners the other retiral benefits, i.e. difference of amount of commutation of pension and leave encashment, with interest at the rate of 6% per annum from the date the amount became payable to the date of payment.

The Writ Petition stands disposed of accordingly.

9. The Motion stands disposed of.

[SANDIPKUMAR C. MORE, J.] **[R.G. AVACHAT, J.]**

KBP