

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

WRIT PETITION NO.13946 OF 2024

The Commissioner/Administrator
Kolhapur Municipal Corporation

....Petitioner

V/S

Pintu Balu Bhalkar

....Respondent

Mr. Sagar Mane *for the Petitioner.*

None for Respondent (leave note).

CORAM: SANDEEP V. MARNE, J.

DATE : 27 MARCH 2025.

P.C.:

1. Heard Mr. Mane, the learned counsel appearing for the Petitioner. None appears for Respondent. Though Advocate Rushikesh Gajanan Patil has filed his Vakalatnama, apparently he has filed a leave note.

2. Mr. Mane would submit that the suspension order dated 18 December 2008 contained a specific condition of giving attendance in the office of City Engineer every day. The subsistence allowance was reduced from 75% to 50% on account of failure on the part of the Respondent to fulfill the said condition of daily attendance during the period of suspension. Reliance is placed on second proviso to sub-rule (1) of Rule 68 of the Maharashtra Civil Services (Joining Time, Foreign Service and Payment during Suspension, Dismissal and Removal) Rules,

1981 under which the Competent Authority is empowered to reduce the amount of subsistence allowance if any condition of suspension is found to be violated.

3. It is also brought to my notice that the Respondent has been found guilty in the Departmental Enquiry and was issued final show-cause for imposition of penalty. The final show-cause notice has been challenged by him before the Labour Court which has granted an order of *status quo*. Thus Respondent continues to be under suspension despite being held guilty of the charge thereby making Petitioner-Municipal Corporation liable for payment of subsistence allowance. The effect of the impugned order passed by the Industrial Court on 26 February 2024 would mean that the Respondent would draw 75% subsistence allowance right since expiry of period of three months after 18 December 2008. Thus Respondent would earn 75% of wages without performing duties for the last 17 long years.

4. In that view of the matter, there shall be stay to the execution of the order dated 26 February 2024 passed by the Industrial Court till the next date of hearing.

5. List the Petition for further consideration on **24 June 2025**.

(SANDEEP V. MARNE, J.)