

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

WRIT PETITION NO. 18764 OF 2024

Viraj Shamrao Patil,
Age: 37 Years, Occupation: Unemployed
Residing at: Flat No. 1602, Cedar B Wing,
Dosti West County, Balkum,
Thane – 400 608 ... Petitioner

Versus

1. State of Maharashtra,
Mantralaya, Mumbai -32.
2. The Municipal Corporation for Greater
Mumbai,
Head Office at: Annex Building,
Municipal Head Office, 6th Floor,
Mahapalika Marg, Fort,
Mumbai 400 001. ... Respondents

Ms.Akshada A.Pasi for the Petitioner.
Mr.S.P.Kamble, AGP for Respondent No.1, State.
Mr.Santosh Parad for Respondent No.2- Municipal Corporation.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 24TH MARCH, 2025

ORAL JUDGMENT (*Per : Ravindra V. Ghuge, J.*)

1. **Rule.** Rule made returnable forthwith and heard finally
with the consent of the parties.
2. The Petitioner has put forth prayer clauses 1(a), (b), (c)
and (d), as under :

“a. that this Hon'ble Court/Tribunal may be pleased to set aside or quash the acceptance of the resignation of the Petitioner by the Respondent no.2 as it was submitted under exceptional family circumstances and without adequate consideration of the Petitioner's long-term interests.

b. Direct the Respondent no.2 to reinstate the Petitioner to the position of Deputy Chief Engineer (SWD).

c. Direct the Respondent no.2 to consider the extenuating family circumstances that led to the Petitioner's resignation before taking any further action in this regard.

d. Direct the Respondent no.2 to release the salary dues and other benefits to the Petitioner.”

3. The learned Advocate for Respondent No.2 Municipal Corporation, who has appeared on request, submits that the Petitioner resigned voluntarily from employment on 3rd July, 2020. The resignation was accepted on 29th September, 2020. The acceptance was communicated to the Petitioner on 29th September, 2020. The Petitioner applied on 23rd November, 2020 for permission to withdraw the resignation, after it was already accepted almost 54 days prior thereto. These dates and sequence of events are not disputed by the Petitioner.

4. The Petitioner has cited the Government Resolution (GR) dated 9th May, 2022 with regard to the decision of the Government to permit employees who have opted for voluntary schemes or resignation, to report back for duties if the posts are vacant. The learned AGP submits that this GR would not apply to the Municipal Corporation employees.

5. The Petitioner then relied upon the judgment of the Hon'ble Supreme Court in *Balram Gupta Vs. Union of India & Anr.*¹ We find from the said judgment that the Hon'ble Supreme Court concluded that if the Government grants no objection for withdrawal of the notice given by employee, ordinarily such permission should not be granted unless he is in a position to show that there has been a material change in the circumstances in consideration of which the notice was originally given. In the facts of the said case, **Balram Gupta** had persistently requested the staff members that he had dropped his idea of seeking voluntary retirement and therefore, he desired to withdraw the notice.

6. In the case in hands, the dates and sequence of events indicate that the Petitioner not only resigned by giving a notice

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period, the resignation was accepted and the acceptance was also communicated to the Petitioner. After the service of the acceptance letter, the Petitioner applied for withdrawal after 54 days on 23rd November, 2020.

7. In view of the above, we are not inclined to entertain this Petition.

8. The learned Advocate for the Petitioner submits in the alternative that the Municipal Corporation has not cleared the legal dues like provident fund accumulations, gratuity, leave encashment etc.

9. In view of the above statement, we observe that the Petitioner is at liberty to make a representation to Respondent No.2 Municipal Corporation, within a period of 15 days from today setting forth his calculations of the unpaid amounts. If there are any unpaid statutory dues, the Municipal Corporation would ensure that the dues are paid, within a period of 45 days from the date of receipt of the representation and shall add the statutory interest component to the unpaid amounts while calculating the dues to be paid.

10. With the above observations, this **Writ Petition is disposed off.**

11. Rule is discharged accordingly.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)