

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

WRIT PETITION NO. 2242 OF 2025

Bhaskar Rawji Gavit. ... Petitioners
Versus
The State of Maharashtra & Anr. ... Respondents.

Mr. Shailesh K. More, a/w. Mr. Prijesh More, for the Petitioner.
Mr. P.P. Kakade, Addl. G.P. a/w. Ms. Nisha Mehra, AGP for
Respondent/State.

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

DATE : 25th FEBRUARY, 2025

P.C. :

1. Rule. Rule made returnable forthwith and heard finally by
the consent of the parties.

2. The Petitioner succeeded before the Industrial Court in
Complaint (ULP) No. 14 of 2006, vide Judgment dated 29th November,
2008, vide which he was granted the following reliefs :-

"The Complaint is partly allowed.

*It is declared that the respondents have engaged in
unfair labour practices under Items-5, 6, 9 & 10 of
Sch-IV of the MRTU & PULP Act, 1971 by reverting
the complainant from the post of junior clerk to peon*

by order dt.20.1.2006, and therefore, respondents are directed to cease and desist from engaging such unfair labour practices forthwith.

The order of reversion of the complainant from the post of clerk to peon dt. 20.01.2006 is hereby quashed and set aside being illegal and wrong.

The respondents are hereby further directed to promote the complainant w.e.f. 20.1.2006 on the post of tracer.

There is no order as to cost. "

3. The State of Maharashtra approached the learned Single Judge in Writ Petition No. 2204 of 2010. On 3rd August, 2010, the learned Single Judge passed the following order :-

"1. Rule.

2. The fact that the respondent has been reverted from the position of a Head Clerk to a Peon, has not been denied. Therefore, in my opinion, there is no need to grant any interim relief. Interim relief refused."

4. The grievance before this Court is that the provisional pension which was started and continued, has been suddenly stopped in November, 2024. So also the gratuity amount has not been paid to him though he has superannuated on 30th April, 2024. He was reinstated in

service after the Industrial Court set aside his reversion.

5. In our view, when the Judgment of the Industrial Court has already been implemented and the Petitioner has completed his service tenure and superannuated, there can be no ground for holding back his pension and paying the gratuity. The learned Single Judge Bench has not stayed the Judgment of the Industrial Court.

6. In the light of the above and to balance the equities, we call upon the Petitioner to tender an affidavit in this Court and copy to be tendered before the learned Single Judge in the pending Writ Petition No. 2204 of 2010, stating therein that if the learned Single Judge holds against the Petitioner and interferes with the Judgment of the Industrial Court, his pension would be stopped and he would re-deposit the amount of gratuity within 45 days from the date of such order, subject to his right to approach the superior court, if aggrieved. The Petitioner who is present in the court instructs the learned Advocate to agree to this suggestion and he agrees to file such an undertaking. The contention is that even if the Petitioner fails before the learned Single Judge, he would be entitled to the pension which would be payable to the lower post of peon.

7. In so far as leave encashment is concerned, we hold that the said amount will be subject to the decision of the learned Single Judge in the above stated Writ Petition.

8. In view of the above, this **Petition is partly allowed** in the following terms :

(a) The Respondent shall process the pension papers of the Petitioner effective from the date of his superannuation, within 30 days from today and submit the said papers with the concerned Accountant General.

(b) The date of provisional pension which was stopped until November, 2024 would be paid to him. The regular pension along with arrears would be paid to the Petitioner from November, 2024 (the date it was stopped). The statutory interest leviable upon the delayed pension payment would be calculated and would also be paid to the Petitioner within 60 days from today.

(c) Gratuity amount shall be calculated and would be paid to the Petitioner along with 12% interest, as per the notification issued by the Union of India under the provisions of the Payment of Gratuity Act, 1970, within 60 days from today.

(d) Leave encashment shall not be released until the decision by the learned Single Judge.

(e) The Petitioner shall tender an undertaking in this Court as well as before the learned Single Judge, within a period of 21 days from today, stating therein that if the learned Single Judge holds against him, and he is dis-entitled to the benefits granted by the Industrial Court, his pension would be stopped forthwith and he would return the gratuity amount, as may be directed by the learned Single Judge, within a period of 45 days. This would be subject to his right to assail the order before any superior Court.

9. **Rule is made partly absolute** in the above terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)