

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

WRIT PETITION NO. 2243 OF 2025

Smt.Monika Abinazer Kedari ... Petitioner
versus
State of Maharashtra & Ors. ... Respondents

Ms.Manisha Devkar with Ms.Siddhi Patil for the Petitioner.
Mr.K.S.Thorat, 'B' Panel Counsel with Mr.S.P.Kamble, AGP for
Respondent Nos. 1 and 2, State.
Ms.Manisha Jagtap for Respondent Nos. 3 to 9- Municipal
Corporation.

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

DATE : 26TH MARCH, 2025

P.C. :-

1. We notice a typographical mistake in paragraph 4 of the order dated 24th February, 2025 wherein we had directed that the interest @ 12% to be paid on the delayed payment of the gratuity amount. The notification dated 1st October, 1987 mandates 10% interest. As such, the order be corrected and be uploaded.

2. The learned Advocate has appeared on behalf of Respondent Nos. 3 to 9, Municipal Corporation.

3. The issues raised in this Petition pertain to non-payment of the gratuity amount, leave encashment amount, difference in the 7th pay scale and the fixation of selection pay grade, which was not done since the Clerk Mr.Orape is alleged to have misplaced the service book of the Petitioner.

4. It is well settled that disputed issues and especially with regard to monetary aspects, should not be considered in the Writ jurisdiction of this Court. Nevertheless, the amounts payable under the Payment of Gratuity Act, 1972 would be a subject matter of arithmetical calculations and the inclusion of the interest component for the delayed payment from the date the gratuity amount became payable until it is actually paid. Disputed issues can be dealt with by the Municipal Corporation and by making appropriate calculations, the same can be paid to the Petitioner.

5. Insofar as issues as like the leave encashment or the calculations as per the 7th pay scale or the fixation of selection pay grade are concerned, the Municipal Corporation ought to deal with these issues at its level rather than demonstrating inaction thereby compelling the High Court to deal with such issues in a Writ Petition.

6. In view of the above, we direct as under :

(a) If the Petitioner is entitled for the fixation of the pay scale of the selection grade, the Municipal Corporation shall take a decision on the said aspect, within a period of 30 days from today. If the Municipal Corporation holds that the Petitioner is not entitled, a reasoned order shall be passed and the same shall be communicated to the Petitioner, within a period of 10 days thereafter;

(b) If the Petitioner is held eligible for the selection grade as well as 7th Pay Commission recommendations, such calculations shall be made, within a period of 30 more days from the date of the fixation of the selection pay grade. Similarly, gratuity would be calculated accordingly keeping in view that the Petitioner has already superannuated. Such payments shall be made, within a period of 30 days after the calculations have been made;

(c) With regard to the allegation of non-payment of bonus for two years, the Municipal Corporation may deal with the said issue and take a decision, within a period of 30 days and if the Petitioner is entitled, the amount towards bonus would be paid to her;

(d) In the event of any further disputes, the Petitioner would be at liberty to avail of a remedy of approaching the Labour Court or the Industrial Court, depending upon the claim to be made, in view of the fact that the Petitioner was working as a Senior Clerk, or approach the Civil Court for instituting a Recovery Suit in order to get a verdict on the disputed amounts/ issues;

(e) Insofar as pension is concerned, it shall be the responsibility of the Municipal Corporation to ensure that the pension proposal is processed and is cleared by the Competent Authority. All arrears

of pension shall be paid to the Petitioner along with the interest component, within a period of 60 days from today and the regular payment of pension would commence, within the same timeline;

(f) We make it clear that on delayed payments, the interest component as is statutorily payable, shall be calculated and shall be included in the amount to be paid.

7. With the above directions, **this Writ Petition is disposed off.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)