



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 7747 OF 2023

The Chief Officer, Municipal Council, Hinganghat, Dist. Wardha
Vs.
Subhash S/o Gulabrao Katkar

WRIT PETITION NO. 7751 OF 2023

The Chief Officer, Municipal Council, Hinganghat, Dist. Wardha
Vs.
Dilip S/o Mahadevraoji Chaware

WRIT PETITION NO. 7750 OF 2023

The Chief Officer, Municipal Council, Hinganghat, Dist. Wardha
Vs.
Yashwant S/o Aappaji Rajpole

WRIT PETITION NO. 7752 OF 2023

The Chief Officer, Municipal Council, Hinganghat, Dist. Wardha
Vs.
Vilas S/o Deoraoji Kalambe

WRIT PETITION NO. 7735 OF 2023

The Chief Officer, Municipal Council, Hinganghat, Dist. Wardha
Vs.
Kiran S/o Dinkarrao Mune

WRIT PETITION NO. 7748 OF 2023

The Chief Officer, Municipal Council, Hinganghat, Dist. Wardha
Vs.
Chandrakant S/o Wamanrao Thakare

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. D.M. Kale, Advocate for petitioners in all petitions.

CORAM : ANIL L. PANSARE, J.

DATE : 06.01.2025.

The common issue is involved, hence, all the petitions are decided by the common judgment.

2. The Labour Court by the impugned order has directed the petitioner to pay amount of gratuity as payable under the provisions of Payment of Gratuity Act, 1972.

3. The respondents herein were appointed as 'Majdoor' and have worked so, for about 30 years. Thereafter and as a special measure, their appointments were regularized in the year 2019.

4. The petitioner-original opponent though denied the length of service and last drawn wages of the applicant failed to place on record before the Labour Court, the correct status of length of service and wages paid to the respondents-employees.

5. The petitioner raised an objection that the respondents were appointed as daily wagers and thus, were not permanent employees. They will be, therefore, not entitled for payment of gratuity.

6. The learned Labour Court referred to Section 2-A of Payment of Gratuity Act, 1972, which defines continuous service to mean an uninterrupted service, including service which may be interrupted on account of sickness, accident, leave or situation of work not due to default of the employees. It further provides for deeming continuous service where an employee is in service for a period of not less than 240 days in a year, as provided under Clause (ii) of Clause (a) of Sub-Section (2) of Section 2-A.

7. The learned counsel for respondent has invited my attention to Section 4 of the Payment of Gratuity Act, 1972, which provides that the payment of gratuity shall be payable to an employee who has rendered continuous service for not less than five years.

8. The Labour Court by taking note of material placed before it, held that the respondents herein have rendered continuous service. The Labour Court noted that the petitioner has neither produced any muster roll nor any order to show that respondents have not completed 240 days service or were absent during employment. The Labour Court further noted that the petitioner having not produced any order as to break in service and muster

roll, it failed to prove that the respondents have not completed 240 days service in each year, and thus have rendered continued service.

9. Taking note of the above, the Labour Court held that the payment of gratuity is payable to the respondent-employees who have rendered continuous service as defined under Section 2-A of the Payment of Gratuity Act.

10. The Labour Court further held that the eligibility criteria for entitlement of gratuity is that the employee should render at least five years of continuous service in the establishment.

11. This finding appears to me to be in consonance with the provisions of Payment of Gratuity Act. The learned counsel for the petitioner failed to show from the record that there was any document or evidence to suggest that respondents have not completed 240 days of service in any year. Infact, their appointment was regularized in the year 2019 though as a one time measure. The learned counsel for the petitioner further failed to show that the order of regularization was subject to any restrictions as regards payment of gratuity. Even otherwise, if the gratuity is payable in terms of the

provisions of the Act, there appears no reason why should the employer not pay the same.

12. There is thus no reason to interfere with the impugned orders in the writ jurisdiction. All the petitions are accordingly dismissed. No order as to costs.

(ANIL L. PANSARE, J.)