



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

WRIT PETITION NO.303/2024

1. The State of Maharashtra,
through Dean, Indira Gandhi Medical
College & Hospital, Central Avenue
Road, Nagpur.
2. State of Maharashtra,
Department of Medical Education &
Medicine Gokuldas Tejpal Hospital,
New GTR Building, 9th Floor, Mumbai,
through its Upper Chief Secretary.
3. Director of Medical Education &
Research, C/o Dental College &
Medical College, 4th Floor, St. George's
Hospital Compound, D'mello Road,
Fort, Mumbai-I.

... Petitioners

- Versus -

Smt. Nalu Wd/o Vilas Shende,
aged 65 Yrs., Occu. Nil,
R/o Plot No.77, Awale Nagar,
Near Priyadarshani Buddha Vihar,
Tekanaka Nari Road, Uppalwadi,
S.O. Nagpur-26.

... Respondent

Ms. Kalyani Marpakwar, A.G.P. for the petitioners.
Mr. N.S. Warulkar, Advocate for the respondent.

CORAM: MRS.VRUSHALI V. JOSHI, J.

DATE OF RESERVING THE JUDGMENT: 11.6.2025.

DATE OF PRONOUNCING THE JUDGMENT: 19.6.2025.

JUDGMENT

Rule. Rule made returnable forthwith. Heard finally with the consent of learned Advocates for the parties.

2. Being aggrieved by the judgment and order dated 22.9.2021 passed by the Controlling Authority under the Payment of Gratuity Act and Judge, Labour Court No.3 at Nagpur in PGA Application No.19/2020 the petitioners have filed this petition.

3. The respondent had filed PGA application under Section 4(1) read with Rule 7(1) and (10) of the Payment of Gratuity Act, 1972 seeking relief of payment of gratuity along with interest.

4. The respondent is the wife of the employee who was working as Peon cum Ward Servant from 31.7.1987 up to 30.6.2018. According to the respondent, her husband had

completed more than 31 years of continuous service with the petitioners and, therefore, he is entitled for gratuity under the provisions of Payment of Gratuity Act. Accordingly she had filed the application.

5. The Controlling Authority vide judgement dated 22.9.2021 passed the order directing the petitioners to pay the gratuity amount of Rs.2,60,739/- to the respondent along with interest at the rate of Rs.10 per annum from 31.5.2018 till realization of the amount.

6. The learned Advocate for the petitioners has stated that the matter is covered by the judgment and order of this Court in Writ Petition No.8302/2023 (The State of Maharashtra, through Dean, Indira Gandhi Medical College and Hospital, Nagpur and others V/s. Mala D/o Bajirao Kale) delivered on 5.2.2025 and Writ Petition No.911/2017 (The Municipal

Council, Achalpur V/s. Jagannath S/o Vishwanath Tathod)
delivered on 27.9.2019.

7. Having heard both the sides and on perusal of record it appears that the appropriate remedy which was available to the petitioners was to file an appeal under Section 7(7) of the Payment of Gratuity Act. An appeal is required to be filed within limitation period i.e. within 60 days which period can be extended by the appellate Authority by further 60 days upon showing sufficient cause. Thus, the limitation period for filing an appeal can be maximum 120 days. The petitioners failed to file an appeal before the competent authority within stipulated period. The petitioners have given the reasons for approaching this Court at belated stage due to the administrative grounds and as there is delay the petitioners have not filed the appeal and invoked the writ jurisdiction of this Court.

8. In Writ Petition No.8302/2023 this Court by relying on the judgment of Nanded Zilla Dekhreh Sahakari Sanstha

Maryadit V/s. Narhar Pralhadrao Kulkarni reported in **2017 (3)**

ALL MR 827 has observed that where the legislature did not prescribe entertaining of an appeal or proceedings particularly beyond number of days, the said period cannot be enlarged even by the Court. The Court further observed that the legislature had not applied Sections 5 and 12 of the Limitation Act, 1963 to the Act of 1972.

9. The issue is also covered by the judgment of this Court in Writ Petition No.911/2017. The facts and circumstances in said writ petition are identical to the facts of the case in hand. In the said case also the employee was continued for years together on daily-wages and was later on regularized with a condition that his previous services will not be counted for financial benefits. It is contended that having accepted the order of regularization, the employee cannot challenge the condition. The Court after having considered the rival contentions and having taken recourse to various judgments on the point, upheld

the finding rendered by the Controlling Authority and the Appellate Authority and held that the employee is entitled to get the gratuity for the entire period of service i.e. from 2.7.1984 until his date of retirement on superannuation i.e. 12.10.2010 along with interest as awarded by the Controlling Authority. As the petitioners are sailing in the same boat, fate of the present petition will be same. The petition is dismissed for the reasons stated hereinabove. Rule discharged. There shall be no orders as to costs.

(MRS.VRUSHALI V. JOSHI, J.)