IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 13818 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No

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GUJARAT WATER SUPPLY AND SEWERAGE BOARD & ORS.
Versus
CHHAGANBHAI BECHARBHAI ZALA & ORS.

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Appearance:
MR. HARDEEP L MAHIDA(7112) for the Petitioner(s) No. 1,2,3
MS ASHLESHA M PATEL(6127) for the Respondent(s) No. 1
NOTICE SERVED BY DS for the Respondent(s) No. 2,3

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CORAM:**HONOURABLE MR.JUSTICE P. M. RAVAL**

Date : 27/10/2026

ORAL JUDGMENT

1. Issue **Rule**. Rule is fixed forthwith. Learned Advocates waives service of rule for the respective parties. By consent of all the parties, the matter is taken up for final disposal.

2. By way of the Petition filed under Articles 14,226 and 227 of the Constitution of India, the Petitioner is challenging the order dated 29.06.2026 passed in Gratuity Appeal No. 21/2026 passed by the Appellate Authority – Rajkot confirming order dated 19.12.2026 passed in Gratuity Case no. 72/2023 (Remand Back case No. 02/2025) passed by Controlling Authority – Jamnagar.

3. Learned Advocate for the Petitioner would submit as follows:-

3.1 That the present petitioner board is a statutory body constituted under the provisions of the Gujarat Water Supply and Sewerage Board Act, 1979 and is governed by the rules, regulations and instructions issued by the State Government from time to time

3.2 Learned Advocate would further submit that respondent No. 1 herein was appointed as “Assistant Engineer” on 06.02.1990 and retired on 30.04.2023 an “Executing Engineer” on attaining the age of superannuation.

3.3 The gratuity the sum of Rs.10,00,000/- was paid on 05.10.2023. However, there was some delay and therefore, respondent No. 1 claimed interest on the delayed payment.

3.4 It is further submitted that the Respondent herein has retired on 30.04.2023 and had filed application before the controlling authority, hence there was delay on the part of the respondent in claiming interest on the payment of the gratuity however, both the controlling authority as well as the appellate authority have committed serious error in granting interest for the delayed period attributed to the present respondent.

3.5 Learned advocate would further submit that both the authority have not considered the fact that there was huge loss to the petitioner board on account of the negligence shown by the respondent and for that purpose the departmental inquiry

was also pending against the Respondent and as per the civil services rules, the service of the respondent was put an end by way of compulsory retirement and as such, when the inquiry was over, the petitioner board had paid the gratuity amount to the present workman and as such there is no delay and therefore ground of interest is not warranted and thus has argued to allow the present petition.

3.6 Learned Advocate would fairly submit that no specific order appears to have been passed by the competent authority directing to withholding the gratuity amount of respondent No. 1 on the basis of the circular issued by the finance department however, he has prayed that the interest rate of 10% per annum deserves to be quashed and set aside since it is too excessive.

4. Per contra, appearing for respondent No. 1 would submit that the respondent was served with the board for almost 33 years and retired after attaining age of superannuation on 30.04.2023 and was legally entitled to receive the gratuity under the provisions of the Payment of Gratuity Act, 1972. However, the petitioner having failed to pay the amount to the Respondent No. 1 within the prescribed period were liable to pay interest upon each and having not paid so have committed breach of the Payment of Gratuity Act, 1972 and hence had a preferred an application before the controlling authority for payment of such interest upon the delayed payment.

4.1 Learned advocate would further submit that both the Controlling Authority as well as the Appellate Authority after having perused the documents on record and having considered

the case put up by the respective parties have ordered to grant interest on the delayed payment as per the statutory provisions under the Payment of Gratuity Act, 1972 and rules framed thereunder and therefore respondent No. 1 is legally entitled to receive such interest for the delayed payment of gratuity which is to the tune of Rs. 10,00,000/-. Thus, it is argued that the authorities having considered relevant factual aspects material available on record and applicable statutory provisions of law and no error either on facts or on law have been committed in ordering the petitioner to pay the interest on the delayed payment of gratuity and thus argued to reject the present petition.

5. Heard learned advocate for the respective parties. Having gone through the material available on record. The principal questions which derives for consideration is to whether the authorities below have committed any error in granting 10% interest on the delayed payment of gratuity to the respondent No. 1 herein.

5.1 It is an admitted fact that sum of Rs. 10,00,000/- towards gratuity was paid on 05.10.2023.

5.2 It also appears from the record that respondent no. 1 was facing departmental inquiry and pursuant to which sum of Rs. 10,00,000/- was to be deducted from gratuity and such order came to be passed and that there is no pension payable in the board, there were no chances of recovery of the said amount from the Respondent and under such circumstances, the gratuity was paid at the belated stage.

5.3 Be that as it may, both the authorities have considered provisions of Section 4 sub Clause (6) of the Payment of Gratuity Act 1972.

> "(6) Notwithstanding anything contained in sub-section (1),—
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> (a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;
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> (b) the gratuity payable to an employee 5[may be wholly or partially forfeited]—
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> (i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act violence on his part, or
>
> (ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment."

5.4 However, on reading of the said subsection, it is clear that gratuity payable to an employee may be wholly or partially forfeited if the services of such employee have been terminated for his misorderly conduct or an act which constitutes an offence involving moral turpitude is committed by him in course of his

employment.

5.5 From the record of the case, it transpires that respondent No. 1 has superannuated and is not terminated. What is alledged is that a departmental inquiry was pending. Be that as it may, that itself would not give the right to the board to withhold the gratuity amount which was required to be paid within 1 month of his superannuation and having found by both the authorities that such amount was not paid as per the statutory provisions, the grant of interest is justified and inasmuch as the employer is required to determine the amount of gratuity payable and arrange for its payment within the prescribed limit under the Act. Whereas Section 7(3)(A) further provide for payment of simple interest where the amount of gratuity is not paid within the specified period prescribed under section Section 7(3)(A) subject to certain exceptions stipulated in the said proviso.

5.6 Therefore, the statutory provision cast an obligation upon the employer to pay the interest on delayed payment of gratuity unless the condition prescribed thereunder are not satisfied. Merely because the departmental inquiry was pending, would not itself be sufficient to absolve the employer from the statutory obligation to pay interest. More so, when deduction of gratuity is permitted only when there is termination which is not the case on hand. However, be that as it may, this finding may not be treated as having said that the petitioner board is not entitled to recover the amount from the respondent No. 1.

5.7 Having said so and having perused the material available on record and having gone through the impugned order passed

by the Controlling Authority and the Appellate Authority and grant of interest is not a discretionary power but a statutory obligation imposed by law upon the authorities and considering the totality of the facts and circumstances of the case, no interference is required at the hands of this court and having failed to demonstrate any sufficient ground for warranting interference with the rate of interest awarded by the authorities below and as held by the Hon'ble Supreme court in the case of Champaran Sugar Company Ltd Versus Joint Labour Commissioner and Appellate Authority and others in Civil Writ Jurisdiction Case No. 1090 of 1985, dated 11.11.1986, wherein, it is held that the employee would be entitled for the interest over the late payment of gratuity made in favour of the concerned employees at the rate of 10% Simple Interest, no fault can be attributed to the respondent No. 1 in as much as the payment of gratuity the sum of Rs. 10,00,000/- was paid on 05.10.2023 after deducting Rs.10,00,000/- from the sum of Rs. 20,00,000/- to be payed towards gratuity. Pursuant to which, present respondent had preferred an application before the controlling authority on 30.08.2023. thus, no delay can be attributed to the present respondent No. 1.

6. For the foregoing reasons, the present petition stands dismissed. The order dated 29.06.2026 passed in Gratuity Appeal No. 21/2026 passed by the Appellate Authority – Rajkot confirming order dated 19.12.2026 passed in Gratuity Case no. 72/2023 (Remand Back case No. 02/2025) passed by Controlling Authority – Jamnagar is hereby confirmed and does not call for interference.

7. The respondent is at liberty to withdraw the amount of interest in accordance with law after due verification from the competent. Rule is discharged.

(P. M. RAVAL, J)

MMP

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MAHENDRA MOHANBHAI PUROHIT(HCD0074), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 29/10/2026 16:28:23