

MPBalekar

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

WRIT PETITION NO. 13894 OF 2024

Gram Panchayat Kalher and Anr. ... Petitioners

V/s.

The State of Maharashtra and Ors. ... Respondents

Adv. S.P. Thorat a/w G.B. Walawalkar and Darshana Chavan for the petitioners.

Mr. Ramakant Paranjpe for the respondent No.2.

Ms. A.A. Nadkarni for the State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 26, 2026

P.C.:

1. The present writ petition is directed against an order passed by the Member, Industrial Court at Thane. By that order, the Industrial Court refused to condone the delay in filing an appeal under Section 7(7) of the Payment of Gratuity Act, 1972. The appeal itself was filed to challenge the earlier judgment dated 27 February 2023 passed by the Controlling Authority, who is also the Judge of the First Labour Court at Thane in Application (PGA) No.22 of 2021. By that earlier decision, the Controlling Authority had allowed the application of the employee and directed the present petitioners to pay gratuity of Rs. 10 lakhs together with interest at the rate of 10 percent per annum from the date of retirement till actual payment.

2. When one looks at the matter as a whole, it becomes clear

that the dispute is not about entitlement to gratuity at this stage. That issue already stood decided by the Controlling Authority. The limited question before the Industrial Court was whether the petitioners had approached the appellate forum within the time permitted by law, or at least within such extended time as could legally be condoned.

3. The record shows that the order of the Controlling Authority was passed on 27 February 2023. It is also not in dispute that the petitioners received a copy of that order on 17 April 2023. This date is important because the period of limitation for filing an appeal begins from the date of receipt of the order. The statute provides a period of 60 days to file an appeal. It further gives a limited power to the appellate authority to condone delay for an additional period of 60 days, if sufficient cause is shown. Thus, the outer limit for entertaining an appeal becomes 120 days from the date of receipt of the order.

4. In the present case, however, the appeal along with the application for condonation of delay was filed only on 26 February 2024. This is far beyond even the extended period of 120 days. At this stage, it is necessary to understand that the right of appeal is not an inherent right. It is a right created by statute. When the statute itself fixes a time limit and also clearly restricts the power of the appellate authority to condone delay only up to a specified period, such restriction must be strictly followed.

5. The proviso to Section 7(7) makes the position very clear. It allows condonation only up to 60 days beyond the original

limitation period. This means that once the delay crosses the total limit of 120 days, the appellate authority has no jurisdiction to entertain the appeal. It is not a matter of discretion after that point. It is a matter of lack of power. Even if sufficient cause is shown, the authority cannot go beyond what the statute permits.

6. In view of this clear legal position, the Industrial Court was right in holding that it had no power to condone such an excessive delay. The reasoning of the Industrial Court is in line with settled principles of law. This Court, while exercising writ jurisdiction, cannot extend the statutory period or override the limitation fixed by the legislature. Doing so would amount to rewriting the provision itself, which is not permissible.

7. Therefore, when the petitioners approached the appellate authority after the expiry of the maximum condonable period, the rejection of their application was a natural and legally correct consequence. No illegality or perversity can be found in the order passed by the Member, Industrial Court, Thane.

8. For these reasons, the writ petition fails. It stands dismissed.

(AMIT BORKAR, J.)