

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

CONTEMPT PETITION NO.155 OF 2025

Gulshan H. LullaPetitioner

Versus

Shailendra Deolankar & Ors.Respondents

WITH

WRIT PETITION NO.13165 OF 2022

Gulshan H. LullaPetitioner

Versus

State of Maharashtra & Ors.Respondents

Mr. Swaraj S. Jadhav for the Petitioner in both Petitions.

Mr. V.G. Badgajar, AGP for Respondent No.1 in Contempt Petition
and for Respondent Nos.1 to 3 in Writ Petition.

Mr. Pradeep D. Dalvi for Respondent Nos.4 and 5.

**CORAM : RAVINDRA V. GHUGE
&
ABHAY J. MANTRI, JJ.**

DATE : 30th JANUARY, 2026

P.C. :-

1. This matter was heard extensively on 29th January, 2026. Since it transpired that the dispute could be amicably resolved, we granted an overnight pass over to the parties and listed the matter today. Both the Contemnors are present in the Court hall.

2. For the sake of clarity, we reproduce herein below the first speaking order passed by this Court while admitting the Writ Petition on 18th April, 2023 :

1. Rule. The Petitioner was suspended on 2nd November 2020 for alleged misconduct. He was, at the relevant time, confirmed in the post of Junior Clerk since 1985. He has rendered about 35 years of service and superannuates in May 2023.

2. We are told that an inquiry was instituted against him on 2nd November 2020. We are now in April 2023 and there appears to have been no significant progress. The inquiry committee was constituted only in March 2021. The Petitioner was called to the inquiry a couple of times but was sent back. At least once it was because the officer representing the Management changed and someone else had to be briefed. Adjournments are being given lavishly for several months.

3. In the meantime, the Petitioner is not even being regularly paid his subsistence allowance to which he is entitled. Even the regular increases have also not been afforded to the Petitioner.

4. We do not see how the Petitioner can be reinstated as an interim order. But this kind of lethargy and delay until superannuation is also unconscionable. Clearly the Petitioner is the party who is more greatly prejudiced. A mere subsistence allowance order at this stage serves no purpose. We might have considered that had we been shown that some real progress had been made in the inquiry. But when we are told that for two years, other than changes in staff and personnel and meetings being scheduled and rescheduled, nothing at all has happened, it is not possible to accept that the Petitioner should be

kept merely on a subsistence allowance.

5. Accordingly, the Petitioner will be entitled to receive and the Respondents No. 4 & 5 will pay to the Petitioner his full wages with annual increments from 2nd November 2020 until his retirement and thereafter all his retiral benefits including pension and gratuity. This will be on a without prejudice basis and subject to the outcome of the Petition, that is to say, that if the Petition fails and if the inquiry is against the Petitioner and any challenge to that inquiry also fails the Petitioner may be required to bring back the entire amount that is legitimately due from him and he may also be subjected to recovery proceedings in that regard including interest. This is the only method by which we can balance the competing equities. On behalf of the Petitioner Mr Jadhav agrees to these terms. This interim order will continue until final disposal of the Petition.

6. Obviously, since the Petitioner retires very shortly in May, Rule will have to be made returnable at an early date. All Respondents waive service. No Affidavit in Reply to the Petition has yet been filed. This is the final opportunity. Affidavit in Reply by Respondents No. 4 and 5 to be filed by 6th June 2023. Rejoinder is permitted by 20th June 2023. The Petition will be listed peremptorily for hearing and final disposal on 30th June 2023.

7. In the meantime, we clarify that Respondents No. 4 and 5 are entitled to proceed with the inquiry against the Petitioner.

3. On 22nd January, 2026, pursuant to the issuance of notice under the Contempt of Courts Act by the order dated

11th December, 2025, this Court had observed in paragraph Nos.5 to 7 as under :

5. We have perused Paragraph No. 5 of the order of the Writ Court dated 18.04.2023. It does not require interpretation that the Writ Court has directed Original Respondent Nos.4 and 5, namely, the institution trust and the Principal, to pay, even the pension and gratuity of the Petitioner. Though an Affidavit-in-Reply has been filed, no details about the gratuity and pension are placed before us.

6. The learned Advocate representing Kamlesh Talreja and Vinod Chandrakant Patil submits that the Contempt Petition is not maintainable since the date of the order of the Writ Court is 18.04.2023 and the Petition has been filed on 21.05.2024, which is around one year and one month later. We do not find that the submissions of the learned Advocate are well placed. Payment of gratuity is to be made after 30 days of the severance of the employer-employee relationship. The same has not been paid and is, therefore, a recurring cause of action. So also, pension has to be paid on month to month basis, and non-payment for each month creates a recurring cause of action, the moment the pension is not paid for a particular month.

7. Both these persons, namely, Kamlesh Talreja and Vinod Chandrakant Patil who have been served with notices, are not present in the Court Hall. We could have issued a bailable warrant. However, the learned Advocate representing them submits that they would remain present before the Court on the next date.

4. Since this Court came to the conclusion that the disobedience by Mr. Vinod Chandrakant Patil, Head Master, and Mr. Kamlesh Talreja, Respondent No.3, amounted to contempt of Court, the learned Advocate representing both the Contemnors tendered an affidavit dated 29th January, 2026 (2 pages), stating therein that both the Contemnors are tendering an unconditional apology and are willing to pay costs of Rs.1,00,000/- each to the Petitioner, instead of inviting an order on the sentence to be suffered by them. The original affidavit is taken on record and marked as 'X' for identification.

5. The learned Advocate for the Management submits, on instructions, that since the Petitioner has already superannuated and his suspension order has been set aside by the interim order of this Court, as reproduced above, the Management desires to '*let bygones be bygones*'. The Management is willing to forget and forgive and withdraw the disciplinary proceedings initiated against the Petitioner.

6. In response, the learned Advocate for the Petitioner submits, on instructions, that the Petitioner also desires to withdraw

the Contempt Petition as well as the Writ Petition, since a clean certificate is being issued to him. Though the Petitioner has suffered the rigours of litigation and grave hardships, he too desires to forget and forgive the Management.

7. We are conscious of the position of a Head Master. In several cases, we have observed that a Head Master is willing to obey the orders of this Court, however, the Employer does not relent and does not agree, and as a consequence, the Head Master becomes helpless. The learned Advocate for the Petitioner fairly submits that the Head Master be absolved from the statement regarding payment of costs of Rs.1,00,000/- to the Petitioner, as the amount would have to be paid from his personal pocket. He further submits that insofar as the other Contemnor is concerned, the Petitioner is willing to accept only a token amount of Rs.50,000/- and close the issue in the Contempt proceedings.

8. In view of the above, we pass the following order :

(a) **The Writ Petition is disposed off** by recording that the disciplinary proceedings initiated against the Petitioner by the Management, stand withdrawn;

(b) As the Petitioner has superannuated on 31st May, 2023, and in the backdrop of the suspension order dated 2nd November, 2020 having been set aside by the interim order of this Court dated 18th April, 2023, the chargesheet dated 4th August, 2021 would stand withdrawn and, consequentially, the departmental enquiry which commenced on 17th September, 2022 would stand closed.

(c) The Management would issue a notional clean service certificate to the Petitioner within 10 working days from today, declaring that he has superannuated on 31st May, 2023 without any blot and with a clean character. Needless to state, since this Court has set aside the suspension of the Petitioner and as his service was never disengaged or discontinued, his employment with the Management would be deemed to be continuous until 31st May, 2023;

(d) The Management would process the appropriate proposal for payment of gratuity as well as pension by fixing the quantum of pension within a period of 15 working days from today and forward the same to the competent Authority along with the updated service book of the Petitioner. The competent Authority would clear the pension proposal of the Petitioner within 30 days from the date of receipt of the proposal;

e) The gratuity amount along with arrears of pension shall be released and paid to the Petitioner within a period of 75 days from today. Regular monthly pension shall commence within the same timeline;

(f) Since the Management has paid the increment and salary directly to the Petitioner pursuant to the interim order of this Court, the Management is permitted to submit a proposal to the Zilla Parishad for reimbursement of the said amount;

(g) An amount of Rs.50,000/- shall be paid by Mr. Kamlesh Talreja to the Petitioner within a period of 15 days from today and on this condition, for which he has volunteered, the contempt stands purged and **the Contempt Petition is accordingly disposed off;**

(h) Since the TDS has been paid by the Management pursuant to the interim order of this Court, the same would be adjusted against one month's pending salary and the residual amount, if any, shall be released in favour of the Petitioner.

(ABHAY J. MANTRI, J.)

(RAVINDRA V. GHUGE, J.)