



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

WRIT PETITION NO. 8504 OF 2025
with
WRIT PETITION NO. 8506 OF 2025
with
WRIT PETITION NO. 6581 OF 2025
with
WRIT PETITION NO. 6582 OF 2025
with
WRIT PETITION NO. 6636 OF 2025
with
WRIT PETITION NO. 6638 OF 2025
with
WRIT PETITION NO. 6629 OF 2025
with
WRIT PETITION NO. 6631 OF 2025

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(1) WRIT PETITION NO. 8504 OF 2025

PETITIONERS

- : 1] Zilla Parishad, Wardha,
through its Chief Executive Officer,
Zilla Parishad, Wardha.
- 2] Zilla Parishad, Wardha,
through its District Health Officer,
Zilla Parishad, Wardha.
- 3] Block Development Officer,
Panchayat Samiti, Arvi,
Tal. Arvi, Dist. Wardha.

VERSUS

RESPONDENT

: Usha Ishwar Motghare,
Aged about 65 years, Occu. Retired,
R/o Sudarshan Nagar, Sariputra Society,
New Narsala Road, Nagpur.

With

(2) WRIT PETITION NO. 8506 OF 2025

PETITIONERS

- : 1] Zilla Parishad, Wardha,
through its Chief Executive Officer,
Zilla Parishad, Wardha.
- 2] Zilla Parishad, Wardha,
through its District Health Officer,
(Health) Zilla Parishad, Wardha.
- 3] Block Development Officer,
Panchayat Samiti, Deoli
Tal. Deoli, Dist. Wardha.

VERSUS

RESPONDENT

- : Suryakant Gulabrao Waghule,
Aged about 62 years, Occu. Retired,
R/o Wadgaon (Khurd), Post Juwadi,
Tah. Sello, Dist. Wardha.

With

(3) WRIT PETITION NO. 6581 OF 2025

PETITIONERS

- : 1] Zilla Parishad, Wardha,
through its Chief Executive Officer,
Zilla Parishad, Wardha.
- 2] Zilla Parishad, Wardha,
through its District Health Officer,
(Health) Zilla Parishad, Wardha.
- 3] Block Development Officer,
Panchayat Samiti, Arvi,
Tal. Arvi, Dist. Wardha.

VERSUS

RESPONDENT

- : Purushottam Bhageluji Gupta,
Aged about 61 years, Occu. Retired,
R/o Ward No.4, Gandhi Chowk, Pulgaon,
Tq. Deoli, Dist. Wardha.

With

(4) WRIT PETITION NO. 6582 OF 2025

PETITIONERS

- : 1] Zilla Parishad, Wardha,
through its Chief Executive Officer,
Zilla Parishad, Wardha.
- 2] Block Development Officer,
Panchayat Samiti, Hinganghat,
Tal. Hinganghat, Dist. Wardha.
- 3] Medical Officer,
Primary Health Center, Burkoni,
Tq. Hinganghat, Dist. Wardha.

VERSUS

RESPONDENT

- : Gita Shivratan Tipale,
Aged about 58 years, Occu. Retired,
R/o Ram Nagar Ward, Newr Bodhane Aata
Chakki, Datta Mandir, Hinganghat,
Tq. Hinganghat, Dist. Wardha.

With

(5) WRIT PETITION NO. 6636 OF 2025

PETITIONERS

- : 1] Zilla Parishad, Wardha,
through its Chief Executive Officer,
Zilla Parishad, Wardha.
- 2] Zilla Parishad, Wardha,
through its District Health Officer,
(Health) Zilla Parishad, Wardha.
- 3] Block Development Officer,
Panchayat Samiti, Arvi,
Tal. Arvi, Dist. Wardha.

VERSUS

RESPONDENT

- : Rekha Ratnakar Bonkinpelliwar,
Aged about 59 years, Occu. Retired,
R/o C/o Nanda Vijay Pimpalkar,
Gurukrupa Nagri, Plot No. 45,
New Swami Samarth Mandir,
Yavatmal, Tq. & Dist. Yavatmal

with

(6) WRIT PETITION NO. 6638 OF 2025

PETITIONERS

- : 1] Zilla Parishad, Wardha,
through its Chief Executive Officer,
Zilla Parishad, Wardha.
- 2] Zilla Parishad, Wardha,
through its District Health Officer,
Zilla Parishad, Wardha.
- 3] Block Development Officer,
Panchayat Samiti, Karanja,
Tq. Karanja, Dist. Wardha.

VERSUS

RESPONDENT

- : Vitthal Natthuji Kewate,
Aged about 61 years, Occu. Retired,
R/o Gajanan Nagar, Ward No.6,
Ingale Layout, Wardha,
Tq. & Dist. Wardha.

With

(7) WRIT PETITION NO. 6629 OF 2025

PETITIONERS

- : 1] Zilla Parishad, Wardha,
through its Chief Executive Officer,
Zilla Parishad, Wardha.
- 2] Zilla Parishad, Wardha,
through its District Health Officer,
(Health) Zilla Parishad, Wardha.
- 3] Block Development Officer,
Panchayat Samiti, Deoli,
Tal. Deoli, Dist. Wardha.

VERSUS

RESPONDENT

- : Sanjay Vinayakrao Dagwar,
Aged about 62 years, Occu. Retired,
R/o Pawanar (Paramdham),
Wardha, Tq. & Dist. Wardha.

With
(8) WRIT PETITION NO. 6631 OF 2025

PETITIONERS

- : 1] Zilla Parishad, Wardha,
through its Chief Executive Officer,
Zilla Parishad, Wardha.
- 2] Zilla Parishad, Wardha,
through its Deputy Chief Executive
Officer (General), Zilla Parishad, Wardha.
- 3] Zilla Parishad, Wardha,
through its District Health Officer
(Health), Zilla Parishad, Wardha.

VERSUS**RESPONDENT**

- : Vijay Purushottam Jangade,
Aged about 61 years, Occu. Retired,
R/o Plot No. 36, Flat No. 201,
Sai Swaraj Apartment, Nagbhoomi Layout,
Chhatrapati Nagar, Samarth Nagar,
Vivekanand Nagar, Nagpur.

Mr. N. M. Kolhe, Advocate for the petitioners.

Mr. S.N. Dandekar with Mr. A.J.Pathak, Advocates for the respondents

CORAM : M. W. CHANDWANI, J.

DATE : JANUARY 06, 2026

ORAL JUDGMENT

1. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsels appearing for the parties.

2. All these petitions raise a common question whether an

appeal filed within 120 days without mandatory requirement of producing a certificate of the Controlling Authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity under the Payment of Gratuity Act, 1972 (hereinafter referred to as “the Act of 1972”) or without depositing such amount with the Appellate Authority within 120 days, can be said to be filing of the appeal in all respects.

3. The respondents herein, in each petition were appointed as “Health Employee” by the petitioners. They have retired from service upon attaining the age of superannuation. According to them, they have rendered the qualifying service required for getting gratuity. Having found that they were not paid the full gratuity as per the Act of 1972, the respondents in each petition preferred an application under Section 7(4) of the Act of 1972 before the Controlling Authority / Labour Court, Wardha. The Controlling Authority/Labour Court, by the impugned orders directed the petitioners to pay the difference of gratuity amount to each respondent with interest. The petitioners challenged the said respective orders in different appeals before the Industrial Court, Nagpur along with an application for condonation of delay.

4. Needless to mention that, under Section 7(7) of the Act of 1972, the limitation for filing appeal is 60 days from the date of receipt of the order. The first proviso to the said Section empowers the Authority to extend the delay for a further period of 60 days on showing sufficient cause justifying the delay. Thus, in no case, can the appeal be entertained beyond 120 days of the receipt of the order.

5. In all petitions, the period of delay runs beyond 60 days but is within 120 days. However, the statutory compliance of depositing the amount of gratuity has been done after the period of 120 days. Since, the mandatory deposit of amount of gratuity is required under Section 7(7) of the Act of 1972 at the time of filing of the appeal, the question is whether not following the same would amount to filing of the appeal in all respects.

6. The learned Industrial Court has observed that non-deposit of the statutory amount as per the second proviso to Section 7(7) of the Act of 1972 amounts to non-filing of appeal in all respects. Since, the mandatory amount stood deposited before the learned Industrial Court in some petitions on 21.10.2024 and in other petitions on 14.11.2024, the same is beyond the period of 120 days.

Therefore, the delay in filing the appeal is more than 120 days and the Court opined that the delay beyond 120 days cannot be condoned.

7. The issue is squarely covered by the decisions of this Court in the case of *Pharma Base India Pvt. Ltd. Mumbai vs. State of Maharashtra and another*, reported at *2009(1) Mah.L.J. 688* as well as in the case of *The Secretary Administrative Officer, Shree Warana Vaibhav Shikshan Mandal and Another vs. Ravindra Tanaji Patil* in *Writ Petition No. 11908 of 2023*, decided on 09.02.2024.

8. In *Pharma Base India Pvt. Ltd.* (supra) the Division Bench of this Court at Principal Seat has observed thus :

“10. The plain reading of above said proviso will reveal that any person aggrieved by an order, under sub-clause (4) of [Section 7](#), may within 60 days from the receipt of the order, prefer an Appeal to the Appellate Authority. However, the Appellate Authority is at liberty, if a sufficient cause is shown, to extend the period of 60 days for further period of 60 days. The Second proviso of [Section 7\(7\)](#) provides that no Appeal by an employer shall be admitted unless, at the time of preferring an appeal, the Appellant either produce a certificate of controlling authority to the effect that the Appellant has deposited with him an amount equal to the amount of gratuity, required to be deposited under [Section 7\(4\)](#) with the Appellate Authority or deposit with the Appellate Authority such amount. Thus, this proviso has imposed fetter on the employers right to file an Appeal. It is amply clear, that employer is obliged to deposit the amount or produce the

certificate of the controlling authority as the case may be at the time of preferring an Appeal.

11. In the background of above legal provisions, now let us consider the facts of the present case. There is no dispute of the fact that the Petitioner received copy of the order of controlling authority on 27/10/2006. There is also no dispute that Petitioner applied for the certified copy and received the same on 10/11/2006. In view of the provisions of sub-section (7) of Section 7, limitation would start to run from the date of receipt of the order and in this case limitation would start from 27/10/2007. We do not find any substances in the contention of the learned counsel appearing for the petitioner that limitation would start to run from for the date of receipt of the certified copy. The Petitioner from 27/10/2006 to 10/11/2006 did not apply for certified copy. For the first time the Certified Copy was applied on 10/11/2006 and the same was delivered to him on the same day. Therefore, at the most one day can be excluded which required to obtain Certified Copy while computing of period of limitation of either 60 days or further extended period of 60 days. The Petitioner sent Appeal by speed post which was received by the office of the Appellate Authority on 13/12/2006. However, alongwith this Appeal, Petitioner neither produced the certificate of the controlling authority to the effect that they have deposited with them an amount equal to the gratuity required to be deposited under sub-section (4) of Section 7 nor deposited such amount with the Appellate Authority. In our view, if the Petitioner wanted to challenge the order of controlling authority, in that case, he was duty bound to produce the certificate or deposit the amount as the case may be, at the time of preferring an Appeal. Though the above dates show that the Petitioners preferred an appeal within a period of 120 days, mandatory deposit as contemplated under second proviso of Section 7(7) was not made within a period of 120 days. There is no dispute that this deposit was made by the Petitioner on 12/03/2007. Precondition of deposit at the time of preferring an Appeal being mandatory, we are of the view that it is to be presumed that the Petitioner filed Appeal only on 12/03/2007.”

Seat in the case of *The Secretary Administrative Officer, Shree Warana Vaibhav Shikshan Mandal (supra)*, relying on the decision in *Pharma Base India Pvt. Ltd (supra)* also took the same view and observed thus :

“9. The question, therefore, arises whether the amount as required under Section 7(4) needs to be deposited before registration of appeal or at the time of entertainment of appeal. In my opinion, the said issue is no longer res integra in view of the Division Bench judgment of this Court in the case of Pharma Base India P. Ltd. (supra). The Division Bench of this Court was faced with the same argument as is made by the petitioner in the present petition. The Division Bench noted such submission in paragraph No.6 of this judgment, whereby the petitioners raised the contention that the requirement of compulsory deposit as contemplated by the proviso of Sub-section (7) of section (7) of the Act is at the time of admission of appeal and not at the time of preferring of appeal. Dealing with such contention, the Division Bench in paragraph No.14 observed as under:

“14. The petitioner's second submission namely the production of a certificate from the controlling authority or deposit of the amount of gratuity as contemplated under 2nd proviso of section 7(7) required to be complied with at the time of admission of the Appeal and not at the time of institution of Appeal also devoid of merit, in view of the specific provisions of 2nd Proviso of section 7(7) that the abovesaid Certificate is to be produced or deposit is to be made at the time of “preferring the Appeal”.

10. Therefore, in my opinion, the observations made by the Division Bench leave no scope for this Court to deviate from the view taken by the Co-ordinate Bench of this Court.”

10. The issue is covered by these decisions of this Court. I do not find any force in the argument of the learned counsel for the

petitioners. Since, the mandatory amount of gratuity was deposited on 21.10.2024 (in WP Nos. 6631/25, 6582/25, 6638/25, 6629/25) and on 14.11.2024 (in WP Nos.8504/25, 8506/25, 6581/25 and 6636/25), respectively, the same is beyond the period of 120 days. Therefore, it is to be presumed that the date of filing of the appeals are 21.10.2024 and 14.11.2024, respectively, which is beyond the period of 120 days. Having found the delay to be more than 120 days, I am of the view that the Industrial Court, Nagpur was justified in rejecting the application for condonation of delay in filing the appeals.

11. Accordingly, the writ petitions are dismissed.

(M.W.Chandwani, J.)

Diwale