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**(2018) 02 BOM CK 0025**  
**In the Bombay High Court**  
**Case No : 4742 of 2002**

Ramkrushna Wasudeorao Nichat

APPELLANT

Vs

The Zilla Parishad, Amravati

RESPONDENT

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**Date of Decision :** 02-02-2018

**Acts Referred:**

[Maharashtra Civil Services \(Pension\) Rules, 1982](#), Rule 27[2]

**Citation :** (2018) 02 BOM CK 0025

**Hon'ble Judges :** B.P. Dharmadhikari, Swapna Joshi

**Bench :** Division Bench

**Advocate :** M.R. Johrapurkar, T. Khan

**Final Decision :** Allowed

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## Judgement

1. Heard Shri Johrapurkar, learned counsel for the petitioner and Ms. Khan, learned A.G.P. for respondent nos. 2 and 3. None had appeared for respondent no.1.
2. With the assistance of learned A.G.P. we have perused reply-affidavit filed by respondent no.1.
3. After superannuation of petitioner, gratuity amount was not released fully and recovery of an amount of Rs. 72,644/- was effected from the same. Petitioner challenged this action in Appeal before respondent no.2 Divisional Commissioner. By a speaking order on 24.12.2001, his appeal came to be allowed and a direction has been issued to respondent no.1 to pay gratuity amount to petitioner and liberty is also given to take action against responsible

persons. After this order, as gratuity amount was not paid, present petition has been filed in September, 2002 by the petitioner.

4. Learned A.G.P. has also pointed out submissions filed by respondent no.2. Respondent no.2 being Appellate Authority has supported the order dated 24.12.2001, which is in favour of the petitioner. Respondent no.1 has pointed out that it is conducting enquiry against the persons in the matter and hence, petition should be dismissed. This reply has been filed on 11.08.2003.

5. Gratuity can be withheld only for a proved loss, that too by a proper order before retirement. This is not the position here. Hence, enquiry even if going on, is not sufficient to deny payment of gratuity amount to petitioner. Respondent no.1 has rightly pointed out the provisions of Rule 27[2] of the Maharashtra Civil Services (Pension) Rules, 1982. If after enquiry the petitioner is found guilty, the loss caused can be recovered as provided in law through his pension amount. Similarly, by way of punishment, his pension also can be deducted.

6. We therefore, find no justification for withholding the gratuity amount payable to petitioner who has superannuated on 31.08.1999.

7. We therefore, direct respondent no.1 to forthwith release the withheld amount of gratuity to petitioner with interest as stipulated in Payment of Gratuity Act . The amount shall be deposited in the bank account of the petitioner within next three months. Writ Petition is accordingly allowed. Rule is made absolute in aforesaid terms, with no order as to costs.