VERDICTUM.IN

2025 INSC 1227

Reportable

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

CONTEMPT PETITION (C) NO. 1264 OF 2018

in

CIVIL APPEAL NO. 4929 OF 2017

KACHARA VAHATUK SHARAMIK SANGH ...PETITIONER(S)

VERSUS

AJOY MEHTA & ORS. ...RESPONDENT(S)

WITH

MA 1807/2018 in C.A. No. 4929/2017

J U D G M E N T

VIKRAM NATH,J.

1. The present contempt petition was filed by respondents to the Civil Appeal No. 4929 of 2017 for non-compliance of the judgment and order dated 07.04.2017, whereby this Court had modified the award of the Industrial Tribunal, Mumbai dated 13.10.2014 as confirmed by the High Court, *vide* judgment and order dated 22.12 2016 passed in Writ Petition No. 11519 of 2014. The Industrial Tribunal by the aforesaid award had directed the Municipal Corporation of Greater Mumbai, the appellant before this Court, to treat 2700 employees of the said corporation as permanent employees

VERDICTUM.IN

and accordingly to extend benefits and status retrospectively from the date of completion of 240 days from the date of joining. This Court, *vide* the aforesaid judgment and order modified the award to some extent and substantially agreed with the relief granted by the Industrial Tribunal. For the sake of convenience, the judgment of this Court dated 07.04.2017 is reproduced hereunder:

"1. Heard the learned counsel for the parties at length.
2. Leave granted.
3. This appeal by special leave is against the judgment and order dated 22.12.2016 of the High Court of Judicature at Bombay in Writ Petition No. 11519 of 2014 whereby the High Court dismissed the Writ Petition filed by the Municipal Corporation of Greater Mumbai and Anr. and granted three months' time to the Corporation to implement the Award dated 13.10.2014 passed by the Industrial Tribunal directing the appellant to treat 2700 employees as permanent employees and accordingly to extend benefits and status retrospectively from the date of completion of 240 days from the date of joining. Hence, the appeal.
4. In our opinion and in the facts and circumstances as posts are required to be created, **it would be appropriate to grant monetary relief w.e.f. the date of Award i.e. 13.10.2014**. Actual monetary benefit to be given from the date of the Award to the employees who are still serving.
5. However, **learned counsel for the parties agreed that the permanent status as a special case be conferred to those employees who had died in service or permanently incapacitated till today w.e.f. the date as ordered by the Industrial Tribunal. Let relief be given as agreed**.
6. However, for the purpose of notional fixation, benefit shall be given from the date ordered by the Industrial Court to all the employees, which has been affirmed by the High Court. **Only exception is with respect to employees who have died/ permanently incapacitated and as per aforesaid agreement**

VERDICTUM.IN

recorded, they will be entitled to the actual benefit w.e.f. the date which has been ordered by the Industrial Tribunal.

7. It was also stated before us that verification process of 2700 employees had been undertaken pursuant to the interim order passed by the High Court. It was found that only 1600 employees were actually available. With respect to remaining workers verification could not be made. Thus, the order which has been passed with aforesaid modification shall be applicable with respect to the employees who were verified. **With respect to remaining employees whose verification could not be made earlier, fresh exercise shall be undertaken. Verification process shall be undertaken with the help of Corporation and Union by the Industrial 3 Investigating Officer of the Industrial Court within a period of six months from today and in case any of the employees is verified, he shall also be entitled to the relief in terms of the order which has been passed by us. In case he has not served, he will not be paid for that period.**
8. This order shall not be treated as a precedent as by and large, it is based on consensus.
9. The appeal stands partly allowed accordingly. The order of the Industrial Tribunal as affirmed by the High Court shall stand modified to the above extent.
10. No costs."

The basic modifications made by the aforesaid judgment have been highlighted in bold.

2. The contempt proceedings have been pending since 2018. However, when compliance was not effected despite repeated orders being passed granting time to the Brihanmumbai Municipal Corporation (for short, "the BMC"), this Court, *vide* order dated 05.03.2024 found that there was substantial non-compliance of the judgment of this Court dated 07.04.2017, and accordingly directed the personal appearance of the Municipal Commissioner, the Deputy Commissioner (SWM),

VERDICTUM.IN

and the Chief Engineer (SWM) on 19.03.2024. Liberty was also granted to the Municipal Commissioner to file up-to-date details of the compliance effected till date.

3. On 19.03.2024, the three officers of the BMC appeared before this Court and filed an affidavit placing on record the status of compliance. Once again, this Court, after briefly recording the contents of the affidavits and hearing the counsel for the parties, issued further directions, fixing the next date as 23.04.2024. The personal appearance of the Municipal Commissioner was exempted for the time being. However, the Deputy Commissioner (SWM) and the Chief Engineer (SWM) were directed to remain present on the next date of hearing.

4. The matter was thereafter taken up on different dates, and a detailed order was passed on 30.04.2024, wherein further issues were considered and creased out, and the BMC was again directed to file a fresh compliance affidavit, and the next date of hearing was fixed as 17.05.2024. Thereafter, the matter has been taken up on several dates, namely, 17.05.2024, 29.07.2024, 27.09.2024, 20.12.2024, 19.02.2025, 18.03.2025, 30.04.2025, 08.09.2025, 15.09.2025 and 16.09.2025.

5. A perusal of the above-mentioned orders would show that BMC has been making genuine efforts to ensure compliance with the directions, and substantial compliance has in fact been effected, as submitted by Ms. Rohini Thyagarajan, learned counsel appearing for the petitioner. On 16.09.2025, when the matter was heard, Ms. Rohini not only made the submissions but also placed before this Court a brief note as

VERDICTUM.IN

to what aspects were still required to be done. Further, Mr. Dhruv Mehta, learned senior counsel appearing for the officers of the BMC had placed his response to the same. The matter was thereafter reserved for orders, primarily to issue such further directions as may be necessary, considering the note submitted on behalf of the petitioner and the response submitted by the respondents.

6. The brief note submitted on behalf of the petitioner union is reproduced hereinbelow:

"A. Appointment of Officer to examine certain issues

1. By an Order dated 20th March 2025, this Hon'ble Court inter alia observed as under:

> "The parties may also consider identifying a retired Class-I officer of the Government or from the Corporation, who may have in-depth knowledge in the calculation of wages/salaries etc."

2. Pursuant to the aforesaid direction, the Petitioner on 2nd April 2025 addressed an email to the Respondents proposing the name of Mr Shrikant Kamble, former Deputy Auditor of the Respondent Corporation (now retired) for the purpose of looking into calculations of the dues of the presently concerned workmen. The Respondent communicated its approval of the said proposal by an email dated 28th April 2025.

3. The aforesaid retired officer assumed charge soon thereafter. The Petitioner has since been addressing letters to the Corporation requesting it to provide information as to the progress made by the officer in the matter of examining the calculations of workers' dues and ascertaining the extent of amounts due, paid and outstanding (Letters at Pg. hereto). There has till date been no response thereto and the Petitioner remains in the dark.

VERDICTUM.IN

4. The Petitioner proposes that this Hon'ble Court consider outlining:

   a. The tasks to be undertaken by the said officer [as outlined for consideration hereinbelow from (B) to (D)] and

   b. Fix a time frame for the completion thereof.

B. Incorrect fitment of workers' wages

5. The Petitioner has noticed from the break-up charts furnished by the Corporation, as also from workers' pay slips that in numerous instances workers' basic wages have been fixed in disregard of their initial dates of appointment (i.e., in 2005-2006).
6. This incorrect fixation of the workers' pay adversely impacts a range of their entitlements total arrears admissible, seniority, promotions and all consequential retiral benefits.
7. Proposed Resolution:

   a. The Auditor to re-examine fitment of the workers' pay by having regard to the wage scales and other benefits, as extended to their counter-part permanent workers having similar or identical years of service.

   b. In this process, the Auditor shall consider wage agreements, circulars, notifications, etc issued by the Corporation from time-to-time for determining the wages and other service conditions of identically situated permanent workers.

C. Discrepancies in the break-up charts furnished by the Corporation

8. That while scrutinising the break-up charts furnished by the Corporation in September 2024, the Petitioner noticed glaring and irreconcilable discrepancies. For one, in a large number of cases, it was found that though the attendance for several months was continuously shown to be 'ZERO' - and as a result nothing admissible for these periods upon

VERDICTUM.IN

verifying with the bank account statements of individual workers, it was found that they had been paid minimum wages for the work rendered by them during such periods. This aspect was brought to the Corporation's attention in several meetings held with its officers, who have acknowledged that on this count the break-up charts are required to be re-worked.

9. Further, as explained hereinabove, the workers' entitlements must be worked out with reference to their correctly fixed pay and after accounting for their outstanding leave (since earned leave at the rate of 30 days each year is admissible). Thus, the break-up charts would have to re-worked additionally considering these aspects of the matter.
10. Proposed Resolution:

    a. The Corporation shall make available all attendance records of the workmen herein to the Auditor, who shall then provide each workman concerned an opportunity to furnish their bank account statements / passbooks / any other documents as proof that they worked during any period(s) for which their attendance is either shown to be 'ZERO' or is not available.

    b. The Auditor shall thereafter prepare break-up charts providing a monthly overview of amounts payable (as a permanent worker, appropriately fixed at the pay scales obtaining from time-to-time), paid (as per what was paid at the relevant time), the payable difference under each head, total arrears and amounts outstanding, if any. This shall be calculated for the period up until July 2025.

D. Recoveries of payments stated to be made in excess of entitlement

11. Recovery notices issued to workers from earliest verified batch of 1600 (approx.). That for the first time in December 2024 / January 2025, more than 859 workers from the batch of approximately 1600 workers, have been issued notices from the Respondent Corporation claiming that excess amounts were paid to them earlier and that,

VERDICTUM.IN

therefore, such amounts are now recoverable. (point to be made about legal heirs)

12. That the liberty granted by this Hon'ble Court by its Order dated 27th September 2024 was in the context of payments recently made by the Corporation pursuant to Orders passed by this Hon'ble Court and not to go back in time and recover from amounts paid nearly 5-6 years back i.e., from 2018-2019, which were, admittedly, paid by the Corporation after examining the attendance records for the period from 2014 onwards (Corporation's Affidavit dt. 19.04.2024, Pg. 11-12, Paras 9- 10).

13. That in any event, no recovery from any worker (whether paid recently in 2024-2025 or earlier) can be made prior to all attendance records (and where such records are not available, proof of minimum wage payments received by the workmen concerned), correct pay fixation, leave encashment etc. having been accounted for, and revised break-up charts prepared.
14. Proposed Resolution: In light of the above, no recoveries shall be made until after the Auditor prepares individual break-up charts and the same is made available to each individual workman. It will be open to the Petitioner / worker concerned, to adopt appropriate proceedings, where aggrieved by the Auditor's tabulation.

E. Designation of an officer within the Corporation for smooth implementation

15. The Deputy Municipal Commissioner (Solid Waste Management Department), who has been reporting to this Hon'ble Court from time- to-time in respect of ongoing compliances, be designated as the Officer tasked with overseeing the resolution of outstanding issues and ensuring that the directions passed by this Hon'ble Court are given effect to in a time-bound manner by taking appropriate administrative decisions.

F. Delayed payment of gratuity

16. That the Corporation had never disputed that the Order dated 7th April 2017 of this Hon'ble Court required it to extend all consequential benefits from the date as ordered by the Award of the Industrial Tribunal, Mumbai to all

VERDICTUM.IN

workers who had died, retired or become incapacitated. Despite this, it is only 7 years thereafter from April/May 2024 onwards, pursuant to Orders passed by this Hon'ble Court, that the Respondent started making payments towards pension and gratuity. This is evidenced from the Corporation's own payment charts shared with the Petitioner.

17. That the workers concerned / their legal heirs have been put to severe economic hardship as a result and, thus, deserve to be granted recompense. So far as gratuity is concerned, Section 7 (3A) of the Payment of Gratuity Act, 1972 unequivocally stipulates that in the event that gratuity is not paid within 30 days of death / retirement, an employer is liable to pay interest thereon from the date on which it becomes payable till the date of payment.
18. That in the circumstances, this Hon'ble Court consider directing Corporation to pay statutory interest as provided for under Section 7 (3A) of the Payment of Gratuity Act, from the date of the concerned worker's death / disablement / retirement till the date on which the full amount due by way of gratuity has been disbursed by the Corporation.

G. Payment of Provident Fund amounts accrued or accumulated

19. That for the period prior to when the workers herein started to receive wages and other emoluments as permanent employees of the Corporation, they were receiving statutory minimum wages. From August 2009 onwards, the Corporation made applicable to the workmen herein the provident fund scheme under the Employees Provident Fund Act, 1952. Accordingly, every month statutory deductions were made from workers' minimum wages towards the 'employees' component of PF. These, along with the matching employer's contribution were routed through NGOs (which kept changing every 6-8 months and were declared 'sham and bogus' in terms of the Industrial Tribunal's Award) to be deposited in each member workmen's EPF accounts. The Respondent Corporation being the "employer" of the each of the workmen concerned herein, is statutorily liable under the EPF Act to ensure that they are paid the entirety of their Provident Fund

VERDICTUM.IN

contributions (comprising the employer's and employee's components) for the aforesaid period.

20. That over time it was found that deductions made from workers' wages and matching employer's contributions were not being deposited with the EPFO. By an order dated 21s December 2023, in proceedings initiated by the EPFO upon a complaint made by the Petitioner, it was held that an amount of Rs. 228,07,21,559/- is not transferred in the accounts of the workers concerned herein (as also several others) and directed that the Respondent Corporation deposit such amount. This Order is the subject matter of a pending Writ Petition (L) No. 6897 of 2024 filed by the Respondent in the Hon'ble High Court of Bombay, which by an Order dated 22nd February 2024 directed that "till the next date no coercive steps shall be taken in pursuance of the impugned Order dated 21 December 2023" [Corporation's Affidavit dt. 27.07.2024 Pg. 14-15 & Pg. 25]. The Petitioner Union has filed I.A. No. 6977 of 2024 seeking to be impleaded in the aforesaid Writ Petition, as a party directly affected by the outcome thereof. However, the Respondent Corporation has filed an Affidavit-in-Reply thereto opposing such prayer.
21. That the Respondent Corporation has resisted addressing the issue of outstanding PF amounts in these proceedings, citing the pendency of the aforesaid matter in the Hon'ble High Court. In these circumstances, this Hon'ble Court may consider directing that the Petitioner Union be heard in the Petition pending before the Hon'ble High Court and all remedied available to it to recover workers' PF be left open, lest the workers concerned herein be left remediless in the matter of their outstanding PF dues."

7. The response of the BMC to the aforesaid note submitted by the petitioner is reproduced hereinbelow:

1. **Appointment of Officer** *(Points. 1-4 of the note submitted by the Petitioner)*:
   By an order dated March 20, 2025, this Hon'ble Court directed the parties to identified a retired Class-I officer with expertise in wage and salary calculations. In consultation

VERDICTUM.IN

with the Petitioner Union, the name of Shri. Shrikant Kamble, a Retired Deputy Municipal Chief Auditor has been agreed by the parties to be appointed by this Hon'ble Court. The concerned officer has been asked to provide a progress report and will schedule a joint meeting with the Petitioner Union at the earliest to discuss the modalities of their participation and representation, and to provide a timeline for the completion of the audit. The Respondent Corporation is committed to a transparent and speedy resolution of the present matter.

2. **Incorrect Fitment of Workers' Wages** *(Points.5-7 of the note submitted by the Petitioner)*:
   a. The note states that the basic wages for numerous workers have been incorrectly fixed without considering their initial appointment dates in 2005-2006. This has adversely affected their entitlements, including arrears, seniority, promotions, and retirement benefits.
   b. It is submitted that the fixation is done considering their initial appointment and notional fixation has been given till 13.10.2014 and in accordance with the relevant notification and circulars of the Corporation. Considering their attendance further fixation has also been considered.
   c. The appointed officer will be provided with the attendance records which has already been provided to the Petitioner Union so that he can resolve any discrepancy in terms of calculation, etc.
   d. It is the understanding of the Corporation that the concerned officer which may be appointed by this Hon'ble Court is for the purposes of resolving discrepancies, if any in the calculation of wages and arrears considering his expertise in the said field. It is further the understanding of the Corporation that the said officer is not to assume any adjudicatory function or replace the decision-making process of the Corporation or this Hon'ble Court.

3. **Discrepancies in Break-up Charts** *(Points. 8-10 of the note submitted by the Petitioner)*:
   a. The Petitioner Union points out discrepancies in the break-up charts, specifically mentioning cases where workers were paid minimum wages despite their attendance being recorded as "ZERO" for several months. They propose that

VERDICTUM.IN

the break- up charts be re-worked to include correct pay fixation and outstanding leave.

b. It is submitted that the breakup charts were already shared with the Petitioner Union in September 2024. It was already informed to the Petitioner as well as mentioned in the affidavit dated 17.02.2025 that on submission of the documents showing the evidence of attendance to the respective ward office, the discrepancy if any, in the breakup charts can be resolved. However, the appointed officer will be asked to verify available attendance records. Workers can also be given the opportunity to submit their bank account statements or other proof to verify work rendered during periods with missing or zero attendance records. The officer will then prepare revised break-up charts, which will include monthly overviews of all payable amounts after considering the bank statements submitted by workers, if any.

4. **Recoveries of Excess Payments** *(Points. 11-14 of the note submitted by the Petitioner)*:
   a. The note raises concerns about the Corporation issuing recovery notices to workers for the excess payments made as far back as 2018-2019. The Petitioner states that no recovery should be made until the revised break-up charts are prepared and made available to the workers.
   b. It is submitted that the appointed officer can prepare individual, revised breakup charts for each workman and will provide a report within a period of 2 months from his appointment for those whose workers who have received excess amounts. This Hon'ble Court has already considered the said situation and has passed an order dated 27.09.2024, the relevant portion of the said order is as follows:)

> "However, we are of the view that in case any excess amount has been paid by the Corporation, the Corporation will have a right to recover it but only after routing it through the petitioner-Association and in a reasonable manner on month to month basis from the salary of the employees."

VERDICTUM.IN

c. Where the record of the workers are available, the Corporation shall recover the excess amounts in the manner prescribed by this Hon'ble Court vide order dated 27.09.2024.
d. Where the records are not available, no further recoveries will be made until the appointed officer has prepared individual, revised break-up charts for each workman and these have been made available to them i.e. within a period of 2 months.
e. In so far as, the pension claims of workers are concerned whose claims are pending verification (due to non-submission of requisite documents), the same will be processed after considering all the excess/outstanding payments.

5. **Designation of an Officer for Implementation** *(Point 15 of the note submitted by the Petitioner)*:
   a. The Petitioner Union states that the Deputy Municipal Commissioner (Solid Waste Management Department) be formally designated to oversee the resolution of the outstanding issues and ensure timely implementation of the court's directions.
   b. It is submitted that the Deputy Municipal Commissioner (Solid Waste Management Department) is already closely monitoring the progress of the compliance of the orders passed by this Hon'ble Court. It will be further be ensured that all directions passed by this Hon'ble Court are implemented in a time-bound and effective manner.
   c.
6. **Delayed Payment of Gratuity** (Points.16-18 of the note submitted by the Petitioner):
   a. It is submitted that entitled /eligible workers have already been paid the applicable gratuity amounts along with the pension claims and the same shall be done for the workers who have received ad-hoc amounts towards pension and gratuity.
   b. It is submitted that keeping in view that no economic hardships be caused to the workers, Respondent Corporation had disbursed ad-hoc amounts towards gratuity along with the pension claims of the respective workers.

VERDICTUM.IN

c. It is further submitted that the process of calculation of pension and gratuity required some time as the documents were to be submitted by the concerned ex-employees or their legal heirs for disbursal of the actual pension and gratuity amounts. Therefore, there has been no intentional delay by the Respondent Corporation in the said process. The following are the challenges faced by the Respondent Corporation in calculation of the actual payable amounts towards gratuity:

i. **Minimum Qualifying Service Requirement**: Gratuity under the Act requires a minimum of five years of qualifying service. Determining the qualifying service was essential service period accurately is essential before any payment can be made.

ii. **Attendance-Based Calculation:**
Gratuity computation depends on verified attendance records from the date of appointment until superannuation or death of the concerned employee. These records were summoned from various wards and departments and then calculations were done for verifying the period of qualifying service. The Petitioner Union has disputed attendance records of certain workers, therefore the gratuity amount can also be calculated once the employee submits bank statements, etc. as already mentioned in Point No. 3 of the present note.

iii. **Delayed Submission of Documents by Workers or their Legal Heirs**:
In several cases, the employees or their legal heirs have submitted the required documents after a long delay further delaying the verification and calculation process. The documents from 130 workers or their legal heirs have not been received till date.

iv. **Loans availed by the Workers:**
In several cases, the employees have taken huge amounts of loans from Municipal Co-operative Bank and the said amounts are required to be adjusted towards their pension and gratuity claims.

Hence, the issue of paying interest may not arise in the facts and circumstances of the present case.

VERDICTUM.IN

7. **Payment of Provident Fund (PF) Amounts** (Points. 19-21 of the note submitted by the Petitioner):
   a. The union raises the issue of approximately Rs. 228 crores in PF contributions not being transferred to the workers' accounts. It also notes that the corporation has resisted addressing this issue, citing a pending writ petition in the High Court of Bombay where the union's request to be impleaded has been opposed. The union requests the court's direction to be heard in the High Court petition.
   b. It is submitted that the Petitioner Union is well aware of the fact that the issue of outstanding Provident Fund amounts is currently sub-judice in a Writ Petition No. 553 of 2024 pending before the Hon'ble High Court of Bombay. The same has been brought to the notice of this Hon'ble Court by way of an affidavit dated 27.07.2024 where in Corporation has stated that it will comply with the final decision of the Hon'ble High Court regarding Provident Fund payments.
   c. Since the said workers in the present contempt petition were contractual employees working with NGOs, prior to orders dated 07.04.2017 passed by this Hon'ble Court, the Provident Fund Amount of the said workers is deposited by the concerned NGOs with the Employees Provident Fund authority and has not been deposited with the Respondent Corporation.
8. It is submitted that the Respondent Corporation has fairly agreed to the name of Mr. Shrikanth Kamble to be appointed, however considering the task at hand, in case a need so arises that an additional officer be appointed to assist in hastening the process, the Respondent Corporation may be permitted to appoint an additional officer.
9. As per the public notice dated 02.09.2025, the camps are being arranged from 03.09.2025 to 17.09.2025 by the Respondent Corporation for the workers who have not reported / identified by investigating officer. From a total of 379 workers unidentified workers, only 2 workers have reported in the camps till date."

8. Insofar as the direction to appoint Mr. Shrikant Kamble, former Deputy Auditor of the BMC (now retired) as the Auditor

VERDICTUM.IN

for the purpose of looking into calculations of the dues of the concerned workmen currently working, has been accepted by the BMC. As such it is directed that Mr. Kamble (in short referred to as the 'Auditor')be entrusted with the job of making the necessary calculations as required with respect to each of the employees currently working, after making due verification from the records and the material which may be placed before him and to submit his report to the corporation with a copy marked to the petitioner union.

9. The BMC shall proceed to comply with the calculation as may be determined by the Auditor and to ensure payment of the outstanding dues, if any, to each of the employees. The amount quantified shall be paid within a period of 4 weeks from the date of submissions of his reports.

10. The emoluments of the Auditor for carrying out the above exercise would be determined and be paid by the BMC without fail.

11. The scope of enquiry to be conducted by the Auditor, apart from making the calculations with respect to the emoluments admissible to each of the employees currently working would also include the following. He will also examine statements of the workers' pay with due regard to the pay slips and other benefits, as extended to their counterpart permanent workers on a similar basis. He shall further take into consideration wage agreements, circulars, notifications etc. issued by the BMC from time to time for determining the wages and other service conditions of identically situated permanent workers.

VERDICTUM.IN

12. The Auditor shall further be provided with all attendance records of the workmen by the BMC. Thereafter, the Auditor, after providing due opportunity to the employees to furnish their bank account statements, passbooks, or any other documents, to prove that they have worked during any period for which attendance is either shown to be zero or is not available, shall proceed with the assessment. The Auditor shall thereafter prepare detailed break-up charts providing monthly overview of amounts payable. With the help of the aforesaid documents, the Auditor shall determine the payable difference under each head, total arrears, and the amounts outstanding, if any.

13. Another aspect to be examined in the enquiry by the Auditor would be the recovery of payments said to have been made by the BMC in excess of the entitlement paid to some of the employees, against whom recovery notices have already been issued. After providing an opportunity of hearing to the concerned employees against whom notices have been issued, the Auditor shall consider as to whether such recovery can be effected or not, and whether any excess amount has actually been paid.

14. Two other issues have been highlighted by the petitioner in the note. Firstly, there has been a delay in the payment of gratuity, for which the employees are entitled to statutory interest as per section 7(3A) of the Payment of Gratuity Act, 1972, from the date it is admissible until the date the full amount is actually paid as per the statutory provisions. The issue of gratuity computation can be determined once the attendance

VERDICTUM.IN

records are received by the Auditor and break-up charts are prepared.

15. Last issue raised is with respect to payment of outstanding Provident Fund. It has been stated in the note that, despite deduction having been made from the workers' wages, the BMC failed to deposit its matching employer's contribution. The Employees' Provident Fund Officer passed an order dated 21.12.2003 recording a finding that an amount of Rs. 228 Crores approximately had not been transferred to the accounts of the concerned workers, and accordingly, directed the BMC to deposit the said amount.

16. This matter is already seeking attention before the Bombay High Court in Writ Petition (L) No. 6897 of 2024, filed by the BMC, challenging the order dated 21.12.2023. In the said petition, the petitioner union has filed an impleadment application in order to place the correct facts before the High Court, since it would be directly affected by the outcome thereof. The same has been strongly opposed by the BMC. The petitioner has further requested that this Court may consider issuing a direction that the petitioner union be heard in the petition pending before the High Court.

17. We are afraid that no such order needs to be passed as the High Court itself would be competent to decide as to whether the impleadment of the petitioner is necessary or not. Since the impleadment application is still pending consideration, we do not wish to in any way influence the said proceedings. The High Court would take an appropriate call on the merits of the application.

VERDICTUM.IN

18. With the aforesaid directions, the matter stands closed. Notices are discharged. Consign to record.
19. We leave it open to the parties to approach this Court again as and when further clarification or modification or directions are required.
20. Pending applications, if any, are disposed of.
21. MA 1807/2018 stands disposed of.

.....J.
[VIKRAM NATH]

.....J.
[SANDEEP MEHTA]

NEW DELHI
OCTOBER 13, 2025