



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11812 OF 2026

Mr. Murali Venkataramana

....Petitioner

V/S

1. Philips Klin Services (India) Pvt. Ltd.

2. Life Insurance Corporation of India

....Respondents

Mr. Avinash Jalisatgi with Mr. T.R. Yadav, Mr. Nagendra Dube, Ms. Divya Wadekar, Mr. Mulanshu Vora and Mr. Shivam S. Dube *for the Petitioner.*

Mr. Haresh Shivdasani *for Respondent No.1.*

CORAM : SANDEEP V. MARNE, J.
RESERVED ON : 12 OCTOBER 2026.
PRONOUNCED ON : 26 OCTOBER 2026.

J U D G M E N T :

1. By this Petition, Petitioner has challenged judgment and order dated 17 August 2026 passed by the Appellate Authority constituted under the Payment of Gratuity Act, 1972 (**PG Act**). By the impugned judgment and order, the Appellate Authority has partly allowed the Appeal (PGA) No. 25 of 2024 preferred by Respondent No.1 and has set aside the judgment and order dated 22 January 2024 passed by the Controlling Authority in Application (PGA) No.156 of 2013. The Controlling Authority had directed payment of gratuity of Rs.27,64,384/- to the Petitioner. The Appellate Authority, while setting aside the order

of the Controlling Authority dated 22 January 2024 has reduced the amount of gratuity payable to the Petitioner to Rs.10,00,000/-, which is directed to be paid along with interest at the rate of 10% per annum from 17 October 2012. Petitioner is aggrieved by reduction of amount of gratuity payable to him from Rs.27,64,384/- to Rs.10,00,000/- and has accordingly filed the present Petition.

2. Petitioner joined the services of Respondent No.1 on 23 March 1995. He served with Respondent No.1 for 17 years and 6 months and rose to the position of Vice President. He was drawing basic wages of Rs.1,33,100/- per month and his annual package was Rs.48,00,000/-. Petitioner tendered the resignation from service of Respondent No.1 on 5 September 2012. According to Petitioner, 17 October 2012 was his last day of work.

3. Respondent No.1 has created a trust for administration of gratuity payable to its employees and has also obtained insurance policy from Life Insurance Corporation of India (Respondent No.2). Petitioner relies on email dated 14 February 2011 under which Respondent No.1 agreed to pay slab-wise gratuity for employees putting in over 10 years of service. Gratuity at the rate of 30 days' for each completed year of service, was agreed to be paid under the email dated 14 February 2011.

4. Respondent No.1 issued legal notice to the Petitioner on 26 November 2012 leveling certain allegations, which was replied to by the Petitioner on 2 January 2013. According to the Petitioner, he was not paid gratuity despite orally demanding the same.

5. Since Petitioner was denied gratuity, he approached the Controlling Authority under the PG Act and filed Application (PGA) No.156 of 2013 and claimed gratuity of Rs.23,95,800/-. The Application was resisted by Respondent No.1 by filing Written Statement. After learning that Respondent No.1 had purchased policy from LIC, Petitioner applied for impleadment of LIC to the PG Application. Accordingly, LIC was impleaded as Respondent No.2 to the PG Application. The Application preferred by LIC for its deletion from PG Application was rejected by the Controlling Authority by order dated 1 September 2023. Respondent No.2-LIC also filed written statement. Petitioner examined himself. Respondent No.1 examined Mr. Vijay A. Vengurlekar, Accounts Executive, to prove its defence.

6. The Controlling Authority thereafter passed judgment and order dated 22 January 2024 directing Respondent No.1 to pay gratuity of Rs.27,64,384/- to the Petitioner with simple interest at the rate of 10% per annum from 17 October 2012 onwards.

7. Respondent No.1 filed Appeal before the Appellate Authority under Section 7(7) of the PG Act challenging the order of the Controlling Authority. It appears that Petitioner had filed SC Suit No.1687 of 2015 for payment of various legal dues in which Respondent No.1 had filed counterclaim. Parties settled the dispute and entered into Consent Terms dated 15 December 2025. Under the Consent Terms, Respondent No.1 paid amount of Rs.4,42,002/- to the Petitioner against various claims. It was also agreed that the accumulated balance in superannuation fund with LIC was Rs.24,19,690/-, to which Petitioner

would be entitled to, without deductions. It was further agreed that the settlement was restricted to claims arising out of the suit and that gratuity claim pending before Appellate Authority would remain unaffected.

8. The Appellate Authority heard the Appeal preferred by Respondent No.1 and by judgment and order dated 17 August 2026, the Appeal has been partly allowed by setting aside the order of the Controlling Authority dated 22 January 2024. The Appellate Authority has held Respondent No.1 is liable to pay amount of Rs.10,00,000/- towards gratuity to the Petitioner with interest at the rate of 10% per annum from 17 October 2012 onwards. Petitioner is aggrieved by reduction of gratuity amount from Rs.27,64,384/- to Rs.10,00,000/- and has accordingly filed the present Petition.

9. Mr. Jalisatgi, the learned counsel appearing for Petitioner submits that the Appellate Authority has grossly erred in interfering in the order of the Controlling Authority. He submits that the Controlling Authority had rightly ascertained the gratuity payable to the Petitioner as Rs.27,64,384/-. That the email dated 14 February 2011 expressly provided for payment of gratuity as per revised terms. That under Section 4A of the PG Act, Petitioner is entitled to draw higher amount of gratuity than the one payable under the PG Act. He relies on Board Resolution dated 16 August 2012 in support of his plea that Respondent No.1 had specifically agreed to lift the maximum limit applicable under PG Act well before coming into effect of Petitioner's resignation. That subsequent execution of Deed of Variation on 19 November 2012 is mere

ministerial act for giving effect to the Board Resolution. He submits that once a decision is taken to pay higher amount of gratuity, the same cannot be made subject to technical formalities of execution of Deed of Variation. He submits that similarly placed employees have been paid higher amount of gratuity by implementing orders passed by the Controlling Authority. He prays for setting aside the order passed by the Appellate Authority.

10. The Petition is opposed by Mr. Shivdasani, the learned counsel appearing for Respondent No.1. He submits that the Appellate Authority has rightly appreciated the position that the varied scheme of payment of gratuity without applying limit under PG Act was brought into effect from 20 November 2012. That at the time of cessation of Petitioner's service on 17 October 2012, the scheme introduced with effect from 1 April 2011 was in vogue which provided for application of maximum limit of PG Act to the slab-wise gratuity. That the maximum limit was lifted by revised scheme introduced from 20 November 2012. He invites attention of this Court to clause 9 of the Trust Deed in support of his contention that any variation in the scheme requires three-stage procedure of passing of board resolution, execution of variation deed, and securing approval of the Income Tax Department to the varied scheme. He submits that mere passing of board resolution is not sufficient for effecting variations in the scheme. That the varied scheme was ultimately incorporated in the Trust Deed on 19 November 2012 and came into effect from 20 November 2012. That therefore payment of gratuity without applicability of any limit would only apply to those

ceasing in service after 20 November 2012. Mr. Shivdasani relies on judgment of this Court in **Pune District Central Co-operative Bank Limited vs. Shivajirao Dinkarrao Jadhavrao and Ors.**¹ in support of his contention that mere passing of board resolution is not sufficient and that the revised scheme comes into effect only after approval is given to the scheme by the Income Tax authorities. He relies on judgment of this Court in **Mercedes-Benz India Pvt. Ltd. and Ord. vs. Noshir Nani Desai**² in support of its contention that mere email correspondence does not create any agreement between the parties. He prays for dismissal of the Petition.

11. Rival contentions urged on behalf of the parties now fall for my consideration.

12. Petitioner is aggrieved by reduction in the amount of gratuity by the Appellate Authority. The Controlling Authority had granted gratuity amount of Rs.27,64,384/- to the Petitioner, which is brought down to Rs.10,00,000/- by the Appellate Authority by the impugned judgment and order dated 17 August 2026.

13. It appears that Respondent No.1 has created a Trust for administration of gratuity payable to the employees and has also obtained policies from Life Insurance Corporation of India. Copy of the Trust Deed dated 20 June 2007 is placed on record. Under clause 11(a) of the Trust Deed, the trustees agreed to provide for payment of gratuity on termination of service, on death or retirement of the member or as

1 (2004) 4 Mh.L.J. 859

2 2024 SCC OnLine 199

provided in the rules of the Scheme. Under annexure to the Trust Deed, Group Gratuity Assurance Scheme was introduced with effect from 1 April 2007. Under the Scheme, gratuity was payable at the rate of 15 days salary for each year of service.

14. Respondent No.1-Company however decided to offer higher amount of gratuity to the employees and officers as a token of appreciation for their continued service in the Company. The Company voluntarily increased the gratuity entitlement as:

20 days basic salary for 5-7 years of service,
25 days of basic salary for 7-10 years of service and
30 days of basic salary for more than 10 years of service.

15. The decision of the management was communicated to the employees vide email dated 14 February 2011. The relevant part of email dated 14 February 2011 reads thus:

GRATUITY

As per the Government of India rules, the Company is obliged to pay 15 days salary, if an employee completes 5 years of permanent service in the Company.

As a token of our appreciation for your continued service in the Company, Company is voluntarily increasing the gratuity payment as follows:-

5-7 years	20 days of basic salary
7-10 years	25 days of basic salary
More than 10 years	30 days of basic salary

We have applied to Government of India for approval of above proposal and on receipt of the same, we will implement the above proposal

16. Thus, Respondent No.1-Company agreed to provide higher amount of gratuity depending on length of service for employees who

had put in more than 10 years of service. Respondent No.1 agreed to pay gratuity at the rate of 30 days' of basic salary per completed year of service. To give effect to the decision communicated to the employees by email dated 14 February 2011, a Deed of Variation was made on 21 April 2011 to the Trust Deed by which amendments were effected in various clauses of the Scheme. The amendment reflected in Annexure-A to the Deed of Variation dated 21 April 2011 reads thus:

ANNEXURE 'A'

Years of unbroken service on date of cessation of service	Gratuity payable (Basic + DA)
5 years and more but less than 7 years	20 days salary for each completed year of service subject to maximum limit specified in the Payment of Gratuity Act, 1972, as amended from time to time.
Over 7 years but less than 10 years	25 days for each completed year of service subject to maximum limit specified in the Payment of Gratuity Act, 1972, as amended from time to time.
Over 10 years	30 days for each completed year of service subject to maximum limit specified in the Payment of Gratuity Act, 1972, as amended from time to time.

The above mentioned amendment shall take effect from 1.04.2011.

17. Thus, the Revised Scheme of payment of slab-wise gratuity came into effect from 1 April 2011. However, though the email was silent on applicability of maximum limit, while executing the Deed of Variation, the trustees incorporated maximum limit specified under PG Act in each of the slabs. It was never the intention of Respondent No.1 to apply any maximum limit on payment of slab-wise gratuity. Respondent No.1 realized the mistake committed while executing the Deed of Variation,

and accordingly the Board of Respondent No.1 adopted following resolution in meeting held on 16 August 2012:

TRUE EXTRACT FROM THE MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS OF PHILLIPS KILN SERVICES (INDIA) PVT. LTD. HELD ON 16TH AUGUST, 2012.

The Board of Directors vide their meeting held on 15th March, 2007 have approved the Gratuity Cum Life Insurance Scheme with the Life Insurance Corporation of India (LIC) and the Trust Deed and Rules thereto. The Board informed that vide Board resolution dated 11th February 2011 amended the ELIGIBILITY Clause in the Gratuity Trust Deed and its Rules by giving effect to the admission of working Directors and also participate in the said Gratuity Scheme of all eligible members who are not more than 70 years and also extended graded benefits of Gratuity stated in Section III of the Rules of the Trust Deed.

The Board informed that while making the deed of variation, even though the gratuity benefits based on the years' of service with the Company was extended, the maximum Gratuity payable under Rule 8,9 and 10 has wrongly been specified as per the Payment of Gratuity Act, 1972 as amended from time to time. However, the intention of the Board was not to restrict the maximum gratuity payable as per the Gratuity Act. Hence, this clause needs an amendment in the Trust Deed and Its Rules and also the Group Gratuity Scheme with LIC of India.

After discussions, it is RESOLVED THAT the Gratuity payable Clause in the Gratuity Trust Deed and its Rules be amended to give effect to the actual amount of gratuity payable as per the graded scale of benefits based on the years' of service with the Company and deleting the word "Subject to maximum limit specified in the Payment of Gratuity Act, 1972, as amended from time to time".

FURTHER RESOLVED THAT the Trustees of the Gratuity Trust Scheme be authorized do all acts in carrying out the above said amendments in the Trust Deed and Rules. The Trustees also carry out necessary modifications in the Scheme with LIC in co-ordination with LIC.

IT IS FURTHER RESOLVED THAT on carrying out the necessary amendments in the Trust Deed and Rules, the Common Seal of the Company be affixed to the said amended Trust Deed/ Deed of Variation.

18. Thus, it is emphatically stated in the board resolution dated 16 August 2012 that the maximum limit under PG Act was wrongly

specified, though the intention of the Board was not to restrict maximum gratuity payable. The Board accordingly resolved to amend the Trust Deed to give effect to actual amount of gratuity payable as per the graded scale of benefits by removing the words "subject to maximum limit specified in the Payment of Gratuity Act, 1972, as amended from time to time".

19. Accordingly, a Deed of Variation dated 19 November 2012 was executed, in which following amendments were introduced in the Trust Deed:

AMENDMENTS

IN THE RULES:

(1) Rule No.7 "Scheme of Insurance" :

Delete the words "as specified in The Payment of Gratuity Act 1972, as amended from time to time" wherever appearing in "Annexure A" under the rule #7 as amended by leader of origin dated 21st April 2011.

Further add following words in the 14th line before the word "provided...."

"However life cover will be restricted as per the Rules of the Corporation amended from time to time."

(2) Rule No.8,9,10 Benefits:

Delete the words "as specified in the Payment of Gratuity Act, 1972 as amended form time to time" wherever appearing in "Annexure A" under the Rule No. 8, 9 & 10 as amended by deed of variation dated 21st April 2011.

Hence the gratuity payable under Rule No.7, 8, 9 & 10 shall be with no ceiling.

The above mentioned amendments shall take effect from 20/11/2012.

20. The Petitioner resigned from service during this gap period of the two Deeds of Variation dated 21 April 2011 and 19 November 2012. He resigned on 5 September 2012 and his resignation took effect from 17 October 2012. According to Respondent No.1-Company, the amended scheme removing the maximum limit came into effect from 20

November 2012, and therefore the same does not apply to the Petitioner. Therefore, the short issue that arises for consideration is whether Petitioner can be extended the benefit of gratuity payable as per the decision taken by Board of Directors of Respondent No.1 without imposition of any maximum limit.

21. If proceedings filed before the Controlling Authority are perused, it appears that Respondent No.1 initially took a plea that no gratuity was payable to the Petitioner on account of non-submission of I-Form, commission of prejudicial acts, and cause of huge financial loss to Respondent No.1 leading to forfeiture of gratuity and in the Written Statement, Respondent No.1 levied serious allegations of cause of financial loss by the Petitioner and raised the plea of forfeiture of gratuity. Respondent No.1-Company also raised the plea that it was entitled to recover amount of Rs.6,40,000/- from Petitioner towards notice pay and further amount of Rs.4,01,507/- being paid excess to him. In paragraph 1(d) of the written statement, Respondent No.1 raised a vague plea that as per the provisions of PG Act, the Trust Deed and Insurance Policy obtained from LIC, no employee is entitled to gratuity above Rs.10,00,000/- and as on 17 October 2012, maximum amount of gratuity was capped at Rs.10,00,000/-.

22. The Controlling Authority adjudicated Petitioner's Application by judgment and order dated 22 January 2024 and held that since Board Resolution was passed prior to submission of resignation by the Petitioner, he was entitled to draw slab-wise gratuity without application of any upper limit. Accordingly, Respondent No.1-Company

was directed by the Controlling Authority to pay gratuity of Rs.27,64,384/- alongwith interest.

23. When Respondent No.1-Company filed Appeal (PGA) No.25 of 2024, there was apparently a shift in its stand and it gave up the plea of non-entitlement of Petitioner to receive any amount towards gratuity. Respondent No.1 prosecuted the Appeal by raising the plea of applicability of maximum cap of Rs.10,00,000/- at the time of resignation of the Petitioner. The Appellate Authority has accepted the plea raised by Respondent No.1-Company by holding that the revised scheme introduced vide Deed of Variation dated 19 November 2012 came into effect on 20 November 2012 when Petitioner was not in service. It therefore held that the maximum cap of Rs.10,00,000/- was applicable as on the date of resignation of the Petitioner. This is how the Appellate Authority has capped the maximum amount of gratuity payable to the Petitioner at Rs.10,00,000/-.

24. In my view, the Appellate Authority has mechanically considered the case of the Petitioner without appreciating the intention of Respondent No.1 to extend the benefit of higher amount of gratuity to its employees. As observed above, there was an error on the part of the trustees while executing the Deed of Variation dated 21 April 2011. The email dated 14 February 2011 did not reflect imposition of any upper limit on amount of gratuity payable to the employees. The higher amount of gratuity as per applicable slab was extended as token of appreciation towards employees, who continued in service of the Company for more than five years. There was no intention on the part

the management to apply any upper limit while introducing the scheme of grade-wise gratuity. However, while executing the Deed of Variation dated 21 April 2011, erroneously maximum limit specified in the PG Act came to be inserted while making applicable the grade-wise gratuity scheme.

25. The Board of Respondent No.1 realized the mistake in execution of the Deed of Variation dated 21 April 2011. The mistake was corrected by passing Board Resolution dated 16 August 2012. However, while giving effect to the Board Resolution dated 16 August 2012, the trustees once again committed the mistake of not making applicable the decision to delete maximum gratuity limit with effect from date of application of slab-wise gratuity i.e. 1 April 2011. The amendment was effected from 20 November 2012.

26. Thus, if a hyper-technical approach is adopted, Petitioner can be denied the benefit of slab-wise gratuity scheme by applying maximum limit of Rs.10,00,000/-. However, such hyper-technical approach needs to be shunned in the present case considering the intention of Respondent No.1. The Board Resolution dated 16 August 2012 expressly stated that *“However, the intention of the Board was not to restrict the maximum gratuity payable as per the Gratuity Act”*.

27. Also, application of limit of Rs.10,00,000/- to slab-wise gratuity scheme renders the objective of paying higher gratuity to the employees otiose in case of most of the employees. If a case of an employee drawing salary of Rs.50,000/- at the time of retirement and who has put in 25

years of service is taken into consideration, the gratuity payable under slab-wise scheme would be in excess of Rs.10,00,000/- and in such situation, applying the maximum limit of Rs.10,00,000/- would render the very objective of offering higher amount of gratuity ineffective.

28. Therefore, in the facts of the present case, intention of Respondent No.1-Company needs to be borne in mind and due importance needs to be given to the specific statement in the Board Resolution that the Company never intended to apply maximum limit while paying gratuity under slab-wise scheme. The intention was to pay gratuity under the slab-wise scheme without putting any upper limit. This objective must be given effect to rather than adopting a hyper-technical approach that the Deed of Variation removed the provision for maximum limit from 20 November 2012 i.e. after resignation of the Petitioner. In the facts of the case where a mistake was committed in applying maximum limit under the Deed of Variation dated 21 April 2011. Once the mistake was sought to be cured by execution of fresh Deed of Variation dated 19 November 2012, the benefit of removal of mistake must be extended to the Petitioner.

29. Respondent No.1 appears to carry some grudge against the Petitioner, which is the reason why no gratuity was paid to him and he was driven to the Controlling Authority for securing his gratuity. Before the Controlling Authority, a bitter battle was fought levelling several allegations of misconduct against the Petitioner. Otherwise, Respondent No.1 appears to have paid higher amount of gratuity to all other officers and employees. The witness of Respondent No.1 Mr. Vijay Audumbar

Vengurlekar, gave an admission that Mr. Manisubramaniam, one of the Directors of the Company, received massive amount of gratuity of Rs.2,53,84,671/-. The other Director, Ms. Bhanumati Subramaniam, received gratuity of Rs.53,66,871/-.

30. The case also involves an element of unjust enrichment by Respondent No.1. As observed above, Respondent No.1 has obtained a policy from LIC for payment of gratuity to its employees. It appears that gratuity of Rs.27,64,385/- had accumulated in the account of Petitioner maintained with LIC. This is clear from email dated 5 June 2015. Mr. Shivdasani has sought to distance Respondent No.1 from email dated 5 June 2015 contending that the same is fabricated. However, cross-examination of the witness Vijay Vengurlekar would indicate that he gave express admission that the email was received by him from LIC. Since recipient of the email has himself admitted existence of the document, Respondent No.1 cannot contend that same is fabricated. Though the witness has denied contents of the email, he has admitted existence thereof. There is one more document on record being bank account extract which indicates an amount of Rs.29,80,808/- was transferred in the bank account of Respondent No.1 by LIC. It is the case of Respondent No.1 that gratuity amount accumulated with LIC is apportioned by Respondent No.1. This is disputed by Mr. Shivdasani contending that the remittance received under the relevant bank entry does not pertain to Petitioner alone. However there is no material placed by him on record that the said transmitted amount did not include the gratuity payable to Petitioner. Also the remittance is not restricted to Rs.

10,00,000/- Therefore there appears to be *prima facie* truth in the contention of the Petitioner about Respondent No. 1 receiving amount in excess of Rs. 10,00,000 from LIC. Thus, the gratuity payable by the Respondent No.1 to Petitioner is appropriated by Respondent No.1 and to this extent there appears to be unjust enrichment by Respondent No.1. However, it is not necessary to delve deeper into this aspect. What needs to be taken into consideration is that gratuity amount of Rs.27,64,385/- was available with LIC to be paid to the Petitioner and the said amount more or less matches the amount directed to be paid by the Controlling Authority.

31. Respondent No.1 has placed on record copy of letter dated 25 April 2011 addressed to Income Tax Authorities in support of its contention that variation in the Scheme required approval of Commissioner of Income Tax. However, no document is placed on record to demonstrate that similar approval was sought in respect of Deed of Variation dated 19 November 2012.

32. I am also not impressed by submission of Mr. Shivdasani that three-stage procedure was mandatory for giving effect to any variation in the Scheme. The three-stage procedure may be relevant for the purpose of effecting variation in the gratuity scheme. In the present case, variation was brought upon by Deed of Variation dated 21 April 2011. What is done subsequently is merely correction in the said Deed of Variation. For such correction, it was not necessary to procure fresh approval from Income Tax Authorities. Correction of error in the earlier

Deed of Variation ordinarily ought to have been given effect from 1 April 2011. The same is erroneously given effect from 20 November 2012.

33. Reliance by Mr. Shivdasani on judgment of this Court in ***Pune District Central Cooperative Bank Limited*** (supra) is inapposite. In that case, the gratuity payable under the PG Act at the time of retirement of Respondent therein was Rs.1,00,000/- and the said amount was paid to him. Shortly before his retirement, a Board Resolution was passed on 3 February 1997 for introduction of group gratuity scheme alongwith Life Insurance Corporation, under which gratuity was to be raised to Rs.2,50,000/-. The scheme was introduced w.e.f. 1 April 1997. Respondent therein was denied the benefit of group gratuity scheme since he retired on 28 February 1997 i.e., prior to 1 April 1997. In the peculiar facts of that case, this Court held in paragraphs 6 and 7 of the judgment as under:

6. A proper reading of the gratuity application filed before the Controlling Authority would establish that what was sought was payment of gratuity under the Act. There was no reference made at all to any resolution nor was any reference made to other persons having been paid gratuity in excess of Rs. 1,00,000/- nor was there any submission that the petitioner-bank had shown favouritism to some employees or had discriminated against the respondent-workman by not paying him gratuity in excess of Rs. 1,00,000/-. The written statement, therefore, naturally did not contain any pleading about the resolution of the bank dated 3-2-1997. According to the bank, as contended in the written statement, the gratuity of Rs. 1,00,000/- had been paid to the workman on 18-3-1997 in accordance with the Act and no further amounts were payable to him. It appears that it was during the course of evidence and arguments before the Controlling Authority that material was brought on record to indicate that some persons had been paid gratuity in excess of Rs. 1,00,000/- although they had retired after the respondent-workman but before the amendment to the Act in September, 1997 raising the ceiling to Rs. 2,50,000/-. The Controlling Authority, therefore, was in error to grant gratuity to the respondent-workman in excess of Rs. 1,00,000/- when the claim of gratuity was made under the Act and there was no evidence on record to

indicate that the bank was paying gratuity at a more beneficial rate than that available under the Act. The only reason for granting the application is that the other employees, who had retired prior to the amendment being brought into force, were paid gratuity in excess of Rs. 1,00,000/-. The Controlling Authority has observed that the Board resolution of 3-2-1997 had not been brought on record. The Labour Court had given no reasons to indicate as to why the amount in excess of the gratuity claimed should have been paid to the respondent. There was no scheme available before the Controlling Authority which stipulated that gratuity in excess of Rs. 1,00,000/- was payable to the employees. That being so, the Controlling Authority was wholly in error to grant this amount.

7. The Appellate Authority has committed a further error by confirming the judgment and order of the Controlling Authority. The resolution of the bank dated 3-2-1997 was brought on record before the Appellate Authority. The Appellate Authority has interpreted the resolution to mean that the bank intended to pay the enhanced gratuity to the employees who were on their muster rolls on 3-2-1997. The submission made by the petitioner that the group gratuity scheme was applicable only from 1-4-1997 was not accepted by the Appellate Authority because by the resolution it was decided to ascertain the burden of the estimated gratuity payable on 3-2-1997. A perusal of the resolution dated 3-2-1997 indicates that the Board of Directors of the bank had taken a decision to introduce the group gratuity scheme in view of the provisions of law then existing as well as the future amendments to the Payment of Gratuity Act which would stipulate Rs. 2,50,000/- as the maximum limit of gratuity payable to an employee. After deciding to introduce the gratuity scheme in principle, the resolution stated that Rs. 17,78,47,261/- was the liability as on that date. It was then resolved to make a deposit of this amount in instalments with the Life Insurance Corporation towards the group gratuity scheme. A further decision was taken to introduce the scheme in respect of workmen who were on the rolls on 21-3-1997. It was also decided to introduce the scheme from 1-4-1997. The Commissioner of Income-Tax, Pune had accorded approval to the scheme of gratuity known as the Pune District Central Co-operative Bank Limited Employees' Group Gratuity cum Life Insurance Scheme. This approval was effective from 1-4-1997. Therefore, obviously, the scheme could come into operation only w.e.f. 1-4-1997. There is no doubt that some workmen who, the respondent-workman claimed, had retired after him were paid gratuity in excess of Rs. 1,00,000/-. These persons had retired some time in July 1997. Obviously, therefore, they were paid gratuity under the Group Gratuity Scheme introduced on 1-4-1997 under which there was no ceiling for the payment of gratuity, although a ceiling existed under the Act. The petitioner bank therefore, cannot be faulted for having paid those persons who had retired after the introduction of the scheme on 1-4-1997 gratuity in excess of Rs. 1,00,000/-.

34. Thus, in ***Pune District Central Co-operative Bank*** (supra), the scheme for payment of higher gratuity was never placed before the Controlling Authority, which had directed payment of amount of Rs.2,50,000/- to Respondent therein only on account of other employees being paid the said amount. The Resolution dated 3 February 1997 was brought on record for the first time before the Appellate Court. This Court held that the revised scheme came into operation from 1 April 1997 when approval of Commissioner of Income Tax was accorded. The facts of the case in ***Pune District Central Co-operative Bank*** (supra) are clearly distinguishable, in that the said case did not involve commission of mistake in execution of Deed of Variation. In the present case, Respondent No.1 has admitted the mistake while executing the Deed of Variation and resolved to correct the said mistake. Therefore, the judgment in ***Pune District Central Cooperative Bank*** (supra) cannot be made applicable to the unique facts and circumstances of the present case.

35. Mr. Shivdasani relies on judgment of this Court in ***Mercedes Benz India Pvt. Ltd.*** (supra) in support of his contention that email does not constitute agreement between the parties. This Court held in paragraphs 10, 11 and 12 of the judgment as under:

10. On the other hand, in Writ Petition No. 12201 of 2021 filed by the Mr. Desai, he is aggrieved by capping of Rs. 10,00,000/- by the Appellate Authority while determining the entitlement of employee towards gratuity. According to Mr. Rao, there is email correspondence between the parties which clearly provided for payment of higher amount of gratuity and according to him, the same would constitute an exception within the meaning of Section 4(5) of the Gratuity Act. Sub-Section 5 of Section 4 reads thus:

(5) Nothing in this section shall affect the right of an employee receive better terms of gratuity under any award or agreement or contract with the employer.

11. It is therefore necessary to examine whether there is any agreement between the parties for payment of higher amount of gratuity than the one provided under the Gratuity Act. I have gone through the email communications dated 24 October 2012 and 31 October 2012 which reads thus:

“Payment of Gratuity-Even the gratuity was considered as part of retirals which were added in the post salary.... However, we have taken the reasonable approach and decided to pay gratuity on basis of your current salary as of 2012 which is over and above the amount legally payable to you”

12. Perusal of the above email communication does not indicate, in any manner, that there is any agreement or settlement for payment of higher amount of gratuity than the one payable under the provisions of the Gratuity Act. Mr. Rao would rely upon the judgment of this Court in *Transport Manager, Kolhapur Municipal Transport Undertaking, Kolhapur*¹. In that case, there was a settlement providing for payment of gratuity at the rate of 21 days wages per year which is better as compared to 15 days' wages per year as per Gratuity Act. It is in the light of such settlement that this Court held that the Respondent therein was entitled to better terms of gratuity under Section 4(5) of the Gratuity Act. The judgment would have no application to the present case, where there is no settlement or agreement for payment of higher/better gratuity than the one provided for in the Act. I therefore do not find any serious flaw in the view taken by the Appellate Authority in holding that the email-communication cannot be termed as contract admitting better terms under Section 4(5) of the Gratuity Act.

(emphasis in original)

36. In my view, the judgment in ***Mercedes Benz*** (supra) has no application to the facts of the present case. Here there is no issue involved as to whether email created agreement or not. The issue is about giving retrospective effect to correction of mistake committed in execution of Deed of Variation. There is an express admission by Respondent No.1 while passing Board Resolution that it never intended to apply maximum limit to payment of gratuity. Therefore, the judgment in ***Mercedes Benz*** (supra) has no application to the facts of the case.

37. Payment of Gratuity Act is a beneficial piece of legislation. It is enacted for the benefit of employees. Therefore, if there is any ambiguity, the interpretation must be in favour of person for whose benefit the PG Act is enacted. The present case involves unique circumstances where mistake got committed in execution of Deed of Variation and commission of mistake is admitted by Respondent No.1. An ambiguity is created on account of execution of subsequent Deed of Variation dated 19 November 2012 giving effect to deletion of maximum limit with effect from 20 November 2012. Thus, there is variance between the actual intention of Respondent No.1 and the amendment effected in the scheme. In these peculiar circumstances, the ambiguity needs to be removed by interpreting the stipulations of Deed of Variation in favour of the Petitioner and against Respondent No.1 who has clearly enriched itself unjustly. Respondent No.1 has acted arbitrarily by denying gratuity to the Petitioner. It initially raised a false plea of forfeiture of gratuity even though no charges were leveled against the Petitioner nor any finding of guilt was recorded against him. It appropriated the amount of gratuity generated in LIC gratuity fund. Before the Appellate Authority, Respondent No.1 changed its stance and agreed to pay gratuity of Rs.10,00,000/-. Thus, the conduct of Respondent No.1 in the entire episode is not above board.

38. Considering the above circumstances, I am of the view that the order passed by the Appellate Authority deserves to be set aside by confirming the order passed by the Controlling Authority. The Petition accordingly succeeds and I proceed to pass the following order:

i) Judgment and order dated 17 August 2026 passed by the Appellate Authority in Appeal (PGA) No.25 of 2024 is set aside.

ii) Judgment and order dated 22 January 2024 passed by the Controlling Authority in Application (PGA) No.156 of 2013 is confirmed.

39. Writ Petition is **allowed** in above terms with no order as to costs.

(SANDEEP V. MARNE, J.)

40. After the judgment is pronounced, Mr. Shivdasani, the learned counsel appearing for Respondent No.1 prays for stay on the withdrawal of the deposited amount of gratuity. Request is opposed by the learned counsel appearing for the Petitioner. Considering the fact that the Petitioner has ceased to be in service of Respondent No.1 since September 2012, and is denied gratuity for the last 14 long years, the request for stay is rejected.

(SANDEEP V. MARNE, J.)