Reserved On : 04/05/2026
Pronounced On : 17/07/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 206 of 2026

In R/SPECIAL CIVIL APPLICATION/3186/2021

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2026
In R/LETTERS PATENT APPEAL NO. 206 of 2026

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CHIEF OFFICER, DHARAMPUR NAGAR PALIKA
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MR JAYRAJ CHAUHAN(2966) for the Appellant(s) No. 1
MS. KRISHNA DESAI, ASST. GOVERNMENT PLEADER for the Respondent(s) No. 1,3
MRS KRISHNA G RAWAL(1315) for the Respondent(s) No. 4

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CORAM:**HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA**
and
HONOURABLE MR.JUSTICE J. L. ODEDRA

CAV JUDGMENT
(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)

1. Deepakbhai Vinayakbhai Desai (appointed on 16.03.1991), Bhayalbhai Jivanbhai Mahakal (appointed on 01.03.1990), Rameshbhai Bhikhabhai Patel (appointed on 01.01.1984), and Pradyumangiri Vallabhgiri Goswami (appointed on 01.08.1994) had filed writ petitions contending that their pensionary

benefits had not been granted, despite them being eligible.

2. The three of them, i.e., Deepakbhai Vinayakbhai Desai, Bhayalbhai Jivanbhai Mahakal, and Rameshbhai Bhikhabhai Patel, contended that they had been appointed by the Gram Panchayat and, subsequently, they were absorbed into service and, on the Panchayat becoming a part of a Municipality, were treated as Municipality employees and were being granted regular pay scales from the date of the regularization. They, however, contended that, on their attaining the age of superannuation, despite requests to grant pension, their claim was not granted.

3. As far as Pradyumangiri Vallabhgiri Goswami is concerned, with which we are concerned in this petition, though he made the same claim, the only difference was that he had been appointed by the Municipality, i.e., the concerned Nagarpalika, on 01.08.1994 after the Nagarpalika had been constituted

on 14.04.1994.

4. In other words, Pradyumangiri Vallabhgiri Goswami was appointed directly by the Municipality and was not an erstwhile Gram Panchayat employee like the other three, who were initially employees of the Panchayath and had later on became employees of the Municipality on the constitution of the Municipality and absorption of the Panchayat in it.

5. The learned Single Judge, by the impugned order, has come to the conclusion that their right to pension cannot be denied by virtue of the judgment rendered by the Hon'ble Apex Court in *Una Nagarpalika versus Kaliben Balubhai Makwana & Anr.*, reported in (2019) 12 SCC 340. This order included the right of Pradyumungiri Vallabhgiri Goswami, i.e., respondent No. 4, to pension.

6. The learned Single Judge accordingly directed the respondents in the writ petition to consider the case of

all the petitioners including the case of Pradyumungiri Vallabhgiri Goswami as being eligible for grant of pension and, while calculating the amount of pension, they should also be granted the benefit of higher pay scale considering the period of service rendered by them. A timeline of six weeks was stipulated by the learned Single Judge.

7. The Appellant-Nagarpalika accepted this order and submitted a proposal to the Government for the payment of pension to all the four petitioners, including respondent No. 4 herein. The State Government, on consideration of the proposal, has granted permission for payment of pension to the other three petitioners, but, in so far as respondent No. 4 was concerned, it took the view that, since he had been appointed after the constitution of the Nagarpalika, the Nagarpalika should pay the pension out of its own funds.

8. The State appears to have taken the view that only the erstwhile employees of the Panchayat, who,

after conversion into a Nagarpalika, were the employees who were entitled to claim the benefits under the Government Provident Fund/pension scheme, which was applicable to Panchayat employees. The State appears to have taken this stand, in so far as the Nagarpalika employee is concerned, on the premise they were covered under the Contributory Provident Fund and, therefore, respondent No. 4 herein would not be entitled to pension.

9. The Nagarpalika, after the Government refused the proposal, filed a review before the learned single judge, being MCA No. 98/2026, but the same has also been dismissed by the learned Single Judge.

10. As a consequence, the Nagarpalika has preferred this appeal challenging the order of the learned Single Judge, in so far as it relates to the direction to extend the pensionary benefits to respondent No. 4 herein.

11. The Nagarpalika seeks to contend that

respondent No. 4 had been appointed by the Nagarpalika after it had been constituted, and therefore respondent No. 4 was not entitled to pension. It seeks to contend that the employees under the Panchayats were entitled to a pension, and this entitlement of theirs was recognized even after the Panchayat was converted into a Municipality. It is contended that the judgment rendered by this Court, in relation to panchayat employees, as confirmed by the Hon’ble Supreme Court, is on the basis, that those of whom who were initially Panchayat employees were entitled to pension by virtue of them initially being Panchayat employees and were therefore entitled to pension even after they became employees of the Nagarapalika.

12. The question of entitlement of pensionary benefits to the erstwhile Panchayat employees on the Panchayats being converted into Municipalities, and also the entitlement of the Municipality employees, has been considered by this Court and also by the Hon’ble

Apex Court.

13. In the case of *Chief Officer versus Muhammad Irshad Husainbhai Baloch, reported in 2011 (0) AIJEL-HC 224820,* the Division Bench, while considering the case of the entitlement of a daily-wager who had been employed with the Panchayat and who was later absorbed in the Municipality, has held that he would be entitled to pension. In this judgment, the Division Bench took note of the fact that, if there had been regular deduction of contribution to the GPF account in respect of an employee and this deduction continued till the age of superannuation, that, by itself, would be sufficient to hold that an employee would be entitled to pensionary benefits.

14. This judgment rendered by the Division Bench was challenged before the Hon'ble Supreme Court in SLP No. 15691-15700/2013, but the same was dismissed, thereby confirming the view of the earlier Division Bench that an employee of a Panchayat, on its

conversion to a Municipality, would be entitled to pension so long as it was shown that there had been regular deduction of GPF.

15. In the year 2014, five employees of the Una Nagarpalika filed writ petitions before this Court seeking payment of pension and pensionary benefits. A learned Single Judge of this Court passed separate orders and allowed the petitions after holding that the petitioners therein were eligible to claim pension and pensionary benefits by virtue of them being employees of the Municipality.

16. The Municipality challenged this order of the learned Single Judge by filing an appeal. The Division Bench, however, dismissed the appeals, and, as a consequence, Una Nagarpalika preferred a Special Leave Petition to the Hon’ble Supreme Court. The Hon’ble Supreme Court, in the case of *Una Nagarpalika versus Kaliben Balubhai Makwana & Anr.*, reported in (2019) 12 SCC 340, while approving the earlier Division

Bench ruling rendered in *Chief Officer versus Mohmad Irshad Husenbhai Baloch* and its affirmation by the Hon'ble Supreme Court in Civil Appeal No. 5529/2016, has held as follows:

> *19) The Division Bench while repelling the aforementioned submission took note of the following four undisputed facts arising in this case:*
>
> > *"1. The original petitioners-respondent No.1 herein in the respective appeals were appointed by the municipality and they were in service of the municipality.*
> >
> > *2. After the appointment, the employee concerned continued in service until he reached to the age of superannuation, so far as LPA No.1066/15 is concerned. Whereas, in the rest of the Letters Patent Appeals, the services of the employees concerned came to an end on account of death of the employees.*
> >
> > *3. It is an undisputed position that the total length of service in respect of all cases has exceeded 10 years which is the minimum requirement for eligibility of pension.*
> >
> > *4. In respect of all employees, which is subject matter of the present group of appeals, they were member of GPF and GPF contributions were being deducted by the municipality from their salary from*

time to time until their services came to an end."

20) The Division Bench was of the view and, in our view, rightly that the distinction sought to be made between the two groups of employees, namely, one coming from the Panchayat and then becoming the Municipal employees and the other directly becoming the Municipal employees was held to be of no significance because the appellant made the respondents members of the GPF contributions and went on to deduct regular contribution from their salary till the date of their retirement.

21) In our view, the case at hand is covered by the earlier decision rendered in the case of Chief Officer vs. Mohamed Irshad Husenbhai Baloch and Others (supra) which stands upheld by this Court by order dated 16.09.2013. We are also of the view that the aforementioned distinction pointed out by the appellant for coming out of the clutches of the decision of Chief Officer vs. Mohamed Irshad Husenbhai Baloch and Others (supra) was also rightly found untenable by the High Court by assigning the proper reasons.

17. As could be seen from the above judgment, the Hon'ble Supreme Court categorically took note of the fact that the Division Bench was right in holding that there can be no distinction made between the

employees of the Panchayat, who became subsequently employees of the Municipality, and the employees who had been directly appointed by the Municipality and were therefore Municipal Employees from the very beginning.

18. The Hon'ble Supreme Court has held the difference in initial appointment i.e., either by the Panchayat or by the Municipality would be of no significance, only because the Nagarpalika had made the employees subject to GPF deductions from their salary till they retired.

19. In other words, right from the first decision in *Chief Officer versus Mohmad Irshad Husenbhai Baloch* to the judgment granted by the Hon'ble Supreme Court in *Una Nagarpalika (supra)*, the law consistently declared is that, if a Municipality were to deduct GPF contributions from its employees, they would be entitled to pension.

20. In the present case, though the Appellant Municipality accepted the judgment of the Trial Court and, in fact, submitted a proposal to the Government for payment of pension to the respondent No. 4, it has subsequently filed this appeal, when the State took up the stand that an employee appointed by the Municipality would be its responsibility in so far as it related to the payment of pension.

21. As noticed above, the primary criteria to determine the entitlement of pension, in the light of the judgment of the earlier division and Chief Officer versus Mohmad Irshad Husenbhai Baloch (Supra) to the judgment granted by the Hon'ble Supreme Court in Una Nagarpalika (supra) by the Hon'ble Supreme Court, is to examine whether there had been GPF deductions from the employee.

22. In the instant case, the respondent No. 4 has produced the following documents as Annexure-B and C. A true translation of the same reads as follows.

DHARAMPUR MUNICIPALITY

Dharampur, Dist. Valsad. Pin Code: 396 050.

Phone Number: 02633-242035 / 242530

Fax Number: 02633-242707

E-Mail: np_dharampur@yahoo.co.in

:: CERTIFICATE ::

This is to certify that Mr. Pradhyumangiri Vallabhgiri Goswami, a retired employee of Dharampur Municipality, held the designation of Wireman. His date of joining service at the Dharampur Municipality office was 15/12/2004, and his date of retirement was 30/04/2019. The deduction for the General Provident Fund (GPF) from his salary by the Dharampur Municipality office commenced on 01/01/2006. This fact is true and correct, in witness whereof this certificate is issued.

Sd/- (Illegible)
Chief Officer
Dharampur Municipality

No. MUN/Outward No./2249/2020
Dharampur Municipality
Date: 31 / 03 / 2020

DHARAMPUR MUNICIPALITY

Dharampur, Dist. Valsad. Pin Code: 396 050.

Phone Number: (02633) 242035 / 242530

E-Mail: np_dharampur@yahoo.co.in

Date: 10/4/2006

:: General Provident Fund (GPF) Annual Savings Statement ::

Subscriber/Employee Name: Pradhyumangiri Vallabhgiri Goswami

Designation: Wireman

Account Number: 64

Year: 2005-06 (from January 2006)

Rate of Interest: 8%

Sr. No.	***Particulars***	***Amount (Rs.)***
1	*Opening Balance (Rs.)*	*0000*
2	*Amount credited from employee's salary during the year (Rs.)*	*1500*
3	*Interest credited by the Government during the year (Rs.)*	*33*

4	*Total Credited Amount (Rs.)*	*1533*
5	*Withdrawal amount made by the employee during the year (Rs.)*	*0*
6	*Closing Balance at the end of the year (Rs.)*	*1573*

Notes:

1. Does the subscriber wish to make any changes to the nomination made under Rule-5?

2. In case the subscriber had not made any nomination in favor of their family members under the proviso (a) to sub-rule (1) of Rule-5, has they since acquired a family?

3. The subscriber must verify the correctness of the annual savings statement and bring any errors to the attention of the Accountant within three months from the date of receipt of this statement.

4. If any change is to be made to the nomination, the nomination form must be filled out and submitted to the office immediately.

Sd/- (Illegible)

Accounts Officer

Accountant

Dharampur Municipality

I have verified the closing balance shown in my General Provident Fund (GPF) statement for the year .... in my GPF Account Number .... maintained at this office since Date: ..../..../....... and have found it to be correct. I hereby confirm the same to the best of my knowledge and understanding. A change/alteration as per Note Column-1 and Column-2 is required / not required.

Account Number: _______________

23. As could be seen from the above, the Appellant Nagarpalika acknowledges the fact that it did deduct GPF contributions from the salary of the respondent No. 4, and this continued throughout the service of the respondent No. 4. This would, by itself, in the background of the law declared in the judgment referred to above, would entitle the respondent No. 4 to the grant of pension and pensionary benefits.

24. The State, which has filed its written submissions, acknowledges that deductions were made from the salary of the respondent No. 4, but the deductions were made under the Major Head – Civil Deposits, and the respondent No. 4 had not opted for the pension scheme, and, as such, the respondent No. 4 would not be entitled to pension.

25. It is to be stated here that, if a deduction is made towards the GPF, as could be seen from the acknowledgment made by the Nagarpalika above, the head of the deposit that money is credited would not be of any significance and, in any event, beyond the control of an employee such as the respondent No. 4. The respondent No. 4, being an employee, would only know that the amounts have been deducted from his salary towards GPF, and, if this deduction is not remitted to the same account, credited to the appropriate account, he cannot be denied the benefit of pension.

26. It is to be reiterated here that the fact that

deductions are made from the GPF is not in dispute and it is admitted both by the Nagarpalika as well as by the State, and, therefore, it is clear that the entitlement of the respondent No. 4 for pension cannot be denied.

27. Arguments are also sought to be advanced by the Nagarpalika and the government, by which they are basically trying to cast the liability to pay pension on each other. The entity which is required to pay pension would not really be germane in so far as the respondent No. 4 is concerned. If the respondent No. 4 has deducted contributions towards GPF, it may probably become liable to pay the pension. But this dispute in between the Municipality and the State regarding the liability to bear the burden of paying the pension cannot be a ground to deny the benefit of pension to an employee, such as the respondent No. 4.

28. It would be open for the Nagarpalika to inform the State that it was making the deposit, maybe under a wrong head, but that should not result in a liability

being cast on it. It would be open for the State to accept this, and thereby, also assume the responsibility to pay the pension.

29. Be that as it may, this issue would have to be resolved by the State and the Municipality amongst themselves and, in an event, the dispute regarding the liability to pay pension amongst themselves cannot be a ground to deny the pensionary benefits to the petitioner.

30. The learned Single Judge has merely relied upon the earlier decision of the Division Bench in LPA No. 1067/2015 and, more importantly, the decision of the Hon'ble Supreme Court in *Una Nagar Palika* (supra), in which it has been clearly held that there cannot be any distinction between the Panchayat Employee and Municipality Employee, and pension will have to be paid if a deduction has been made from the salary towards the GPF.

31. Consequently, the writ appeal is dismissed. Accordingly, the connected Civil Application is also disposed of.

(N.S.SANJAY GOWDA,J)

(J. L. ODEDRA, J)

Mehul Desai