

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.714 OF 2016**

DIST. :AURANGABAD

Subhash s/o Devrao Mahale,  
Age.62 years, Occ. :Pensioner,  
R/o Plot no. 24, Gut no. 92, Peshve Nagar,  
Near Satara Parisar, Beed Bypass,  
Aurangabad.

-- APPLICANT

**V E R S U S**

1. The State of Maharashtra,  
Through the Secretary,  
Department of Irrigation,  
Mantralaya, Mumbai 32.
2. The Superintendent Engineer  
Command Area Development Authority,  
Aurangabad.
3. The Executive Engineer,  
Patbandhare Vibhag, Jalna.

-- RESPONDENTS

APPEARANCE :- Shri Vivek G. Pingle, learned Advocate for  
the applicant.

: Shri I.S. Thorat, learned Presenting Officer  
for the respondent nos. 1 & 3.

: Shri Shamsundar B. Patil, learned Advocate  
for respondent no. 2.

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**CORAM** : **Hon'ble Shri B.P. Patil, Member (J)**

**DATE** : **24.8.2017**  
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**ORDER**

1. The applicant has prayed to issue directions to the respondents to pay interest on the amounts of D.C.R.G., Arrears of Pension, leave encashment, Commutation Value of Pension, Assured Progression Scheme at the rate of 12% per annum, by filing the present O.A.

2. The applicant was appointed as a Class-IV employee in the year 1978-79. Thereafter he was brought on Converted Regular Temporary Establishment in the year 1983. In the year 1988, there was mass retrenchment in which the applicant was terminated. Therefore, the applicant approached the Hon'ble High Court Mumbai, Bench at Aurangabad challenging the notice of retrenchment by filing writ petition. The Hon'ble High Court was pleased to grant stay to the retrenchment in the year 1988. The said matter went up to Hon'ble Supreme Court and finally the applicant was continued in the service till his retirement. He retired on superannuation on 30.5.2012.

3. It is the contention of the applicant that though the applicant was brought on C.R.T.E. on 2.9.1985, the respondents had given him the date of C.R.T.E. as on 30.9.2003. Therefore, the applicant filed proceedings against the respondents in that

regard. Thereafter, the applicant was restored on the date of C.R.T.E. from 2.9.1985. It is his contention that after retirement on 30.5.2012, the applicant filed various applications/representations with the respondents for granting him pension and pensionary benefits. Lastly he received the amounts of D.C.R.G. on 30.10.2015, amount of leave encashment on 10.11.2015, amount of commutation value of pension on 12.5.2016 and benefits of second time bound promotion scheme on 24.5.2016. The applicant received the said amounts 4 years after his retirement and therefore he requested the respondents to pay interest on the delayed payment of pension and pensionary benefits by filing applications on 8.6.2016, 12.7.2016, 28.7.2016 and 8.8.2016, but the respondents had not given any heed to his requests. Therefore, he filed the present O.A. & prayed for issuance of appropriate directions to the respondents to pay interest at the rate of 12% per annum on the delayed payment of pensionary benefits amounting toRs. 10,90,944/-.

4. The respondents filed affidavit in reply and contended that the applicant was appointed on daily wages basis on 2.9.1980. Thereafter, in view of Kalelkar Settlement the applicant was brought on C.R.T.E. in the year 1985. Thereafter the Department has passed the order of mass retrenchment and therefore, the

applicant's services were terminated. The applicant approached Hon'ble High Court against the retrenchment notice by filing W.P. No. 1573/1988. Hon'ble High Court granted stay to the retrenchment of the applicant and therefore he was continued in the service. Thereafter the said writ petition challenging the retrenchment notice by the applicant came to be transferred to this Tribunal and it was renumbered as T.A. no. 8/1993. This Tribunal disposed of the said T.A. / W.P. along with other similar matters vide orders dated 8.10.2002 and 23.7.2003 by directing the respondents therein to take appropriate steps in terms of G.Rs. dated 24.11.2000 & 24.4.2001. Thereafter the Respondent-State challenged the order of the Tribunal by filing the writ petition no. 7447/2006, which was dismissed by Hon'ble High Court vide order dated 24.8.2009. The Respondent State challenged the said order of Hon'ble High Court dated 24.8.2009 passed in W.P. no. 7447/2006 before the Hon'ble Supreme Court by filing S.L.P. Hon'ble the Supreme Court dismissed the said S.L.P. by order dated 3.5.2010.

5. Thereafter, the Govt. has issued G.R. dated 24.8.2011. On the basis of G.R. dtd.24.8.2011, order has been issued by the Superintendent Engineer, Jayakwadi Project Circle, Aurangabad

on 14.9.2011, whereby the applicant was given the date of C.R.T.E. as 30.9.1993.

6. The applicant and others have challenged the said order by filing M.A. for permission to file C.P. before this Tribunal in the year 2011 and the said M.As. / C.Ps. have been disposed of by the Tribunal by issuing directions to the respondents to comply the order showing the date of applicants having been brought on C.R.T.E. as indicated in column no. 4 of the Annexure of G.R. dated 24.8.2011. The Respondent State challenged the said order by filing W.Ps. no. 4585/2013 & other writ petitions before the Hon'ble Bombay High Court, Bench at Aurangabad. Hon'ble High Court by its order dated 23.6.2014 upheld the order passed by the Tribunal and dismissed the said W.Ps. Hon'ble High Court has also directed that the G.Rs. dated 24.8.2011 & 24.9.2011 should be withdrawn and appropriate order be passed within a period of six months from the date of passing of the said order. As per the said directions the Govt. issued G.R. dated 7.2.2015 and complied with the directions issued by the Hon'ble High Court and this Tribunal. Accordingly, the applicant has been given the date of C.R.T.E. as 2.9.1985.

5. Meanwhile the applicant attained the age of superannuation and retired on 30.5.2012. In view of the G.R. dated 7.2.2015, the

respondents had granted the date of C.R.T.E. as 2.9.1985 i. e. original date of C.R.T.E. to the applicant for granting the pensionary benefits. Accordingly the respondents sent a proposal to the Accountant General on 28.7.2015 and it was sanctioned on 7.8.2015. Thereafter following amounts have been disbursed to the applicant :-

<b>Sr. no.</b>	<b>Particulars</b>	<b>Amount Rs.</b>	<b>Date of payment</b>
1	D.C.R.G.	1,14,450	30.10.2015
		89,565	02.05.2016
2.	Leave Encashment	4,32,666	10.11.2015
		1,43,703	25.04.2016
3.	Commutation	2,73,285	12.05.2016
4.	24 years promotion benefits	37,475	24.05.2016
	TOTAL	10,90,944	

6. It is their contention that the proposal has been sent to the Accountant General regarding the pensionary benefits to the applicant immediately after issuing the G.R. dated 7.2.2015 and all the amounts have been paid to the applicant within one year therefrom. Therefore, there was no delay on the part of the respondents in making the payment of amounts of pension and pensionary benefits. Therefore, they are not liable to pay the interest in view of the provisions of rule 129 (A) & (B) of the Maharashtra Civil Services (Pension) Rules, 1982.

7. The applicant filed rejoinder and contended that the amount of pensionary benefits have been paid to the applicant after 4 years from the date of his retirement and there was administrative lapse on the part of the respondents in paying the pensionary benefits to the applicant and therefore he is entitled to get the interest on the said delayed payment of pensionary benefits.

8. I have heard Shri Vivek G. Pingle, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for the respondent nos. 1 & 3 and Shri Shamsundar B. Patil, learned Advocate for respondent no. 2 and perused the documents placed on record.

9. Admittedly the applicant was appointed on daily wages basis on 2.9.1980 on a Class – IV post. Admittedly in view of Kalelkar Settlement he was brought on C.R.T.E. in the year 1985. Admittedly the Department has passed order of mass retrenchment and therefore, the applicant's services were terminated. Admittedly, the applicant approached Hon'ble High Court against the retrenchment notice by filing W.P. No. 1573/1988. Hon'ble High Court granted stay to the retrenchment of the applicant and therefore he was continued in service. Admittedly, the said writ petition challenging the retrenchment notice by the applicant came to be transferred to this Tribunal

and it was renumbered as T.A. no. 8/1993. Admittedly, the Tribunal disposed of the said T.A. / W.P. along with other similar matters vide orders dated 8.10.2002 and 23.7.2003 and directed the respondents therein to take appropriate steps in terms of G.Rs. dated 24.11.2000 & 24.4.2001. Admittedly, the Respondent - State challenged the order of the Tribunal passed in writ petition no. 7447/2006 before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad, which was dismissed by Hon'ble High Court vide order dated 24.8.2009. Thereafter, the Respondent State challenged the said order of the Hon'ble High Court dated 24.8.2009 before the Hon'ble Supreme Court by filing S.L.P. The Hon'ble Supreme Court dismissed the said S.L.P. by the order dated 3.5.2010.

10. Admittedly, thereafter the Govt. had issued G.R. dated 24.8.2011 and on the basis of it the Superintendent Engineer, Jayakwadi Project Circle, Aurangabad issued order on 14.9.2011 and thereby the applicant was given the date of C.R.T.E. as 30.9.1993. Admittedly, the applicant and others have filed M.As. for permission to file C.Ps. before this Tribunal in the year 2011 and the said M.As. / C.Ps. have been disposed of by the Tribunal by issuing directions to the respondents to comply the order showing the date of applicants having been brought on C.R.T.E.



as indicated in column no. 4 and not in column no. 8 of the Annexure of G.R. dated 24.8.2011. The Govt. has challenged the said order by filing W.Ps. no. 4585/2013 & other Writ Petitions before the Hon'ble Bombay High Court, Bench at Aurangabad and Hon'ble High Court by its order dated 23.6.2014 upheld the order passed by the Tribunal and dismissed the said W.Ps. Hon'ble High Court has further directed that the G.Rs. dated 24.8.2011 & 24.9.2011 should be withdrawn and appropriate order be passed within a period of six months from the date of passing of the said order. Admittedly in view of the said directions the Govt. issued G.R. dated 7.2.2015 and complied with the directions issued by the Hon'ble High Court and this Tribunal. Accordingly, the applicant has been given the date of C.R.T.E. as 2.9.1985 i.e. the original date of his C.R.T.E., which has already been decided by the Tribunal. Admittedly, the applicant retired on 30.5.2012 during the pendency of the proceedings. After issuing the G.R. dated 7.2.2015, the respondents had granted the date of C.R.T.E. as 2.9.1985 i. e. original date of C.R.T.E. as directed by the Tribunal to the applicant for granting the pensionary benefits. Accordingly the respondents sent a proposal to the Accountant General on 28.7.2015 and it was sanctioned on 7.8.2015. Thereafter D.C.R.G. amount of Rs. 1,14,450 & Rs. 89,565 were paid to the applicant on 30.10.2015 & 02.05.2016 respectively. Amount

of Leave Encashment amounting to Rs. 4,32,666/- &Rs. 1,43,703/- were paid to the applicant on 10.11.2015 &25.04.2016 respectively. Commutation amount of Rs. 2,73,285/- was paid to him on 12.5.2016. Arrears of 24 years time bound promotion amounting to Rs. 37,475/- has been paid to the applicant on 24.5.2016. Admittedly the applicant has received total amount of Rs. 10,90,944/- towards the pensionary benefits.

11. Learned Advocate for the applicant has submitted that the applicant was retired on 30.5.2012. The Tribunal has given directions to the respondents to grant him the date of C.R.T.E. as 2.9.1985, but the respondent Government had not considered the said aspect and they had intentionally made delay in sending the pension proposal of the applicant to the Accountant General. He has submitted that 4 years' delay has been caused in making payment of pensionary benefits to the applicant and therefore, he prayed to grant interest thereon in view of the provisions of Rule 129 (a) & 129 (b) of the M.C.S. (Pension) Rules, 1982.

12. Learned Advocate for the applicant has placed reliance on the judgments of Hon'ble Supreme Court in the cases of **VIJAY L. MEHROTRA VS. STATE OF U.P. AND OTHERS [AIR 2000 SC 3513 (2)]** and **STATE OF KERALA AND OTHERS VS. M. PADMANABHAN NAIR [AIR 1985 SC 356]**.

13. He has submitted that there was administrative lapse on the part of the respondents in disbursing the pensionary benefits to the applicant and therefore he is entitled to get interest on the said amounts. Therefore, he prayed to allow the present O.A.

12. The learned P.O. submitted that dispute regarding the date of C.R.T.E. of the applicant has been decided finally in the year 2014 when Hon'ble High Court dismissed the W.P. no. 4585/2013 & other Writ Petitions by its order dated 23.6.2014 with a direction to the respondents to withdraw the G.Rs. dated 24.8.2011 & 24.9.2011 and to pass appropriate order in the matter within a period of six months from the date of passing of the said order. He has submitted that thereafter as per the directions of Hon'ble High Court the Govt. issued G.R. dated 7.2.2015 and complied with the directions issued by the Hon'ble High Court and this Tribunal. Thereafter, the applicant has been given the date of C.R.T.E. as 2.9.1985. The earlier date of C.R.T.E. 2.9.1985 has been given to the applicant for pensionary benefits. He has submitted that the respondents thereafter sent a proposal to sanction pension to the applicant to the Accountant General on 28.7.2015. Thereafter the pensionary benefits have been paid to the applicant. He submitted that the entire process has been completed within a period of one year from the date of issuance of

G.R. dated 7.2.2015 and there were no administrative lapses on the part of the respondents. Therefore the applicant is not entitled to get interest on the payment of pensionary benefits in view of the provisions of Rule 129 (a) & 129 (b) of the M.C.S. (Pension) Rules, 1982. Therefore, he prayed to reject the original application.

13. On going through the documents on record, it appears that the issue regarding granting date of C.R.T.E. to the applicant was pending before the appropriate forum and it was finally decided by the Hon'ble High Court vide its judgment in writ petition no.W.P. no. 4585/2013 dated 23.6.2014. By the said order the Hon'ble High Court has directed the respondents to withdraw the G.Rs. dated 24.8.2011 & 24.9.2011 and to pass necessary order in that regard within a period of six months from the date of passing of the said order. As per the said directions the Govt. issued G.R. dated 7.2.2015 and complied with the directions issued by the Hon'ble High Court and this Tribunal. Accordingly, the respondents have granted the date of C.R.T.E. as 2.9.1985 to the applicant for the purpose of pensionary benefits and thereafter his pension proposal has been sent to the Accountant General on 28.7.2015. It was sanctioned by the said authority on 7.8.2015 and thereafter the amounts of D.C.R.G.,leave encashment,

commutation value of pension and benefits of second time bound promotion scheme were paid to the applicant during the period from 30.10.2015 to 24.5.2016. As there was dispute regarding the date of C.R.T.E. of the applicant, the pensionary benefits have not been paid to him earlier. The matter has finally been decided on 23.6.2014 by the Hon'ble High Court and thereafter G.R. dated 7.2.2015 has been issued by the Government. The events occurred in the matter show that there was no administrative lapse on the part of the respondents in paying the pensionary benefits to the applicant. As soon as G.R. dated 7.2.2015 had been issued by the Government, the date of C.R.T.E. of the applicant has been fixed as 2.9.1985 i.e. his original date of C.R.T.E. and then pension proposal has been sent to the accountant General on 28.7.2015. It was sanctioned by the Accountant General on 7.8.2015. Thereafter the amounts of D.C.R.G., leave encashment, commutation value of pension and benefits of second time bound promotion scheme were paid to the applicant during the period from 30.10.2015 to 24.5.2016.

14. Therefore, in my view, there was no intentional or deliberate delay on the part of the respondents in making the payment of pension and pensionary benefits to the applicant. Likewise, there were no administrative lapses on the part of the respondents in

making payment of pension and pensionary benefits to the applicant. They acted promptly after fixing the date of C.R.T.E. and sent a proposal to the Accountant General immediately. On receiving sanction from the Accountant General, they paid the amounts of pensionary benefits to the applicant promptly. Therefore in my view there was no delay caused in making the payment of pensionary benefits to the applicant. Therefore the applicant is not entitled to claim any interest on the payment of pensionary benefits in view of the provisions of Rule 129 (a) & 129 (b) of the M.C.S. (Pension) Rules, 1982. Therefore, in my view, there is no merit in the original application. Consequently it deserves to be dismissed. Hence, the O.A. is dismissed with no order as to costs.

**MEMBER (J)**

ARJ-O.A. NO. 714-2016BPP (INT. ON DELAYED PAYMENT)