

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

**ORIGINAL APPLICATION NO. 74 OF 2023  
(Subject – Pension and Pensionary Benefits)**

**DISTRICT : AHMEDNAGAR**

**Vilas s/o Gotiram Dhole,** )  
Age : 64 years, Occu. : Retired as Vanmajoor,)  
R/o : Jeur Baijabai, Taluka Nagar, )  
Dist. Ahmednagar. )

.... **APPLICANT**

**V E R S U S**

**1. The Deputy Conservator of Forest,** )  
Ahmednagar, Van Bhavan, Nagar )  
Aurangabad Road, Ahmednagar, )  
District Ahmednagar-414001. )

... **RESPONDENT**

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**APPEARANCE** : Smt. Vijaya Adkine, Counsel holding for Shri  
V.B. Wagh, Counsel for the applicant.

: Shri N.U. Yadav, Presenting Officer for  
Respondent authorities.

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**CORAM** : **Hon'ble Shri Justice P.R. Bora, Vice Chairman**

**DATE** : **31.07.2023.**

**O R A L - O R D E R**

1. Heard Smt. Vijaya Adkine, learned counsel holding for Shri  
V.B. Wagh, learned Counsel appearing for the applicant and Shri  
N.U. Yadav, learned Presenting Officer appearing for the  
respondent authorities.

2. The applicant retired from the service on 31.05.2019 on attaining the age of superannuation. After his retirement, though the respondents did pay him the amount of GPF, GIS, Encashment of Leave, as well as, started giving him provisional pension, the respondents did not pay him the amount of Death Cum-Retirement Gratuity and his case for regular pension has not yet been processed. It is the contention of the applicant that he was prosecuted in Sessions Case No. 192/2006 for the offences punishable under section 302 r.w. 34 of the Indian Penal Code and under Section 3(1)(x) of S.C. and S.T. (Prevention of Atrocities) Act and he got acquitted from the said case vide the judgment delivered by the Sessions Court at Ahmednagar on 11.03.2014.

3. Learned counsel for the applicant submitted that the respondent has withheld the amount of gratuity and has not processed his case for regular pension only on the ground that Criminal Appeal No. 322/2015 filed by the State against the judgment passed by the Sessions Court at Ahmednagar in Sessions Case No. 192/2006 is pending before the Hon'ble High Court. Learned counsel submitted that it is well settled that only on the ground of pendency of appeal before the Hon'ble High Court against the order of acquittal passed in favour of the

employee, his retiral benefits cannot be withheld by the Government. learned counsel further pointed out that this Tribunal while deciding **O.A. No. 178/2021 (Nandkishor Ramdin Vs. the State of Maharashtra & Ors.)** on 11.11.2022 has considered the judgment delivered by the Hon'ble High Court in **W.P. No. 6650/2020 (Ashfakali Khan Abdulali Khan Vs. the State of Maharashtra & Ors.)** and relaying on that has passed the order directing the State to pay the amount of gratuity, as well as, to pay the applicant in the said case regular pension on submitting undertaking in that regard. Learned counsel further submitted that the O.A. No. 178/2021 was filed by the accused No. 2 in the Sessions Case No. 192/2006, wherein the present applicant was the accused No. 5. Learned counsel in the circumstances prayed for similar order as has been passed in O.A. No. 178/2021.

4. The sole respondent filed his affidavit in reply, which is at page Nos. 66 to 73 of the paper book. The request made in the present Original Application is opposed by the sole respondent only on the ground of pendency of appeal before the Hon'ble High Court against the order of acquittal passed in favour of the applicant. In the arguments also learned P.O. did not point out or press any other ground on behalf of the respondent.

5. I have gone through the judgment delivered by this Tribunal in O.A. No. 178/2021. As submitted by learned counsel for the applicant, the O.A. No. 178/2021 was filed by one of the accused in Sessions Case No. 192/2006, wherein the present applicant was accused No. 5. Therefore, there remains no doubt that the present applicant stands at par with the applicant in O.A. No. 178/2021 and deserves the similar order as has been passed in the aforesaid O.A. In the decision rendered in O.A. No. 178/2021 this Tribunal has referred to the judgment delivered by the Hon'ble High Court in W.P. No. 6650/2020 and has reproduced the entire judgment in the aforesaid W.P. In the said O.A. this Tribunal has held the applicant in the said matter entitled for remittance of amount of DCRG, as well as, for grant of regular pension on the basis of law laid down by the Hon'ble Bombay High Court while deciding W.P. No. 6650/2020.

6. As noted hereinabove, the respondent has raised the sole ground in the affidavit in reply i.e. pendency of criminal appeal against the acquittal of the applicant in Sessions Case No. 192/2006. In light of the decision rendered in O.A. No. 178/2021, the present Original Application also deserves to be allowed having identical facts. Learned counsel for the applicant submitted that the applicant is ready to furnish the undertaking

as was directed by this Tribunal in the judgment and order passed in O.A. No. 178/2021.

7. In the view of the facts as aforesaid, the following order is passed :-

**ORDER**

- [i] The applicant shall tender an affidavit/undertaking to respondents stating therein that if he suffers an adverse order in Criminal Appeal No. 322/2015 pending in the Hon'ble High Court and if his acquittal is converted into conviction, he shall return the entire gratuity amount within 8 weeks from the date of judgment, subject to his right to challenge the said judgment. All consequences flowing from such conversion of acquittal into conviction would bind the petitioner to the extent of the monetary reliefs that he would be getting in view of this order.
- [ii] After such affidavit is filed satisfying the above stated ingredients, the respondents shall initiate steps for compliance of prayer clause "B" and ensure that such compliance is made within 12 (twelve) weeks from the date of the filing of such affidavit by the applicant.
- [iii] O.A. stands disposed of in aforesaid terms without any order as to costs.

**PLACE : AURANGABAD.**

**DATE : 31.07.2023.**

**KPB S.B. O.A. No. 74 of 2023 PRB Pension and pensionary benefits**

**(JUSTICE P.R. BORA)**

**VICE CHAIRMAN**