

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 467 of 2021 (S.B.)**

Dr. Latish Krushnarao Deshmukh,  
Aged about 64 years, Occ. Retired,  
R/o Moropant Joshi Colony, Camp, Amravati  
Tq. & Dist. Amravati.

**Applicant.**

**Versus**

- 1) State of Maharashtra through Principal Secretary,  
Ministry of Urban Development,  
Mantralaya, Mumbai-32.
- 2) The District Administrative Officer,  
Municipal Council, Administration,  
Collector Officer, Amravati.

**Respondents.**

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**Shri N.S. Bhelkar, Advocate for the applicant.**  
**Shri V.A. Kulkarni, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

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**Date of Reserving for Judgment : 28<sup>th</sup> November, 2022.**

**Date of Pronouncement of Judgment : 6<sup>th</sup> December, 2022.**

**JUDGMENT**

**(Delivered on this 6<sup>th</sup> day of December, 2022)**

Heard Shri N.S. Bhelkar, learned counsel for the applicant  
and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was suspended from service on 10/02/2011.  
Thereafter a departmental enquiry was initiated against the applicant.

Charge sheet was issued on 24/08/2012. The departmental enquiry was completed and order of punishment was passed on 17/05/2017 with a direction to deduct 6% of amount from the pension of the applicant for one year only.

3. It is submitted that the applicant has challenged the said order before the Hon'ble Governor of State of Maharashtra. The Hon'ble Governor has sent the appeal for hearing before the Minister of Food and Supply Department. After hearing both sides at length, the Minister passed order in April,2018 thereby allowed the appeal filed by the applicant and quashed the order of punishment. The said order was communicated to the applicant on 02/05/2019. It is submitted that during the pendency of inquiry the applicant was retired from service on 31/08/2015 after attaining the age of superannuation. The respondents have not paid the pensionary benefits immediately after his retirement. Thereafter in the year 2021 the retiral benefits, gratuity, pensionary benefits etc. are paid. Hence, the applicant filed the present O.A. for payment of interest of 24% on the delayed payment of pension and pensionary benefits.

4. The respondent / government has communicated vide letter dated 10/01/2022 about the details of the payment. The communication is marked at Exh-X. As per this communication, the departmental enquiry was pending at the time of retirement of the

applicant. The provisional pension was paid. In the departmental enquiry, punishment order for deducting 6% amount from his pension for a period of one year was passed. The applicant challenged the said order before the Hon'ble Governor. As per the direction of Hon'ble Governor, the said appeal was placed before the Minister of Food and Supply Department. The said appeal was heard on 09/01/2018. The Maharashtra Public Service Commission (MPSC) gave consent on 06/03/2019. Thereafter all the pensionary benefits were paid till 20/07/2020.

5. Heard Shri N.S. Bhelkar, learned counsel for the applicant. He has submitted that the applicant received the pension and other pensionary benefits after 5-7 years from the date of his retirement, therefore, he is entitled for interest @ 24% on the delayed payment. In support of his submission pointed out the decision of Hon'ble Bombay High Court in the case of **Sakharam Parasharam Ghaste Vs. Municipal Corporation of Brihanmumbai & Ano.** and the decision in the case of **D.D. Tewari (dead) through Legal Representatives Vs. Uttar Haryana Bijli Vitran Nigam Limited and others, (2014) 8 SCC, 894.**

6. Heard learned P.O. Shri V.A. Kulkarni for the respondents. He has pointed out Rule 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982. The learned P.O. has submitted that

the gratuity and pensionary benefits were withheld because of the pendency of the departmental enquiry. The respondents have paid all the retiral dues after completion of the departmental enquiry. Hence, the applicant is not entitled for interest as prayed.

7. There is no dispute that the departmental enquiry was initiated against the applicant in the year 2012. The applicant came to be retired on 31/08/2015. The departmental enquiry was completed and punishment order was passed on 17/05/2017. The 6% amount was directed to be deducted from the pension amount for a period of one year. The punishment order dated 17/05/2017 was challenged by the applicant before the Hon'ble Governor of Maharashtra. As per the direction of Hon'ble Governor, the said appeal was placed before the Minister of Food and Supply Department. The said appeal was heard on 09/01/2018 and after obtaining the sanction from MPSC, the order was passed. Immediately thereafter all the pensionary benefits were given to the applicant. There was no delay on the part of respondents. The learned P.O. submits that the cited decisions are not applicable in the present case. Therefore, the O.A. is liable to be dismissed.

8. From the perusal of Exh-X, it is clear that the appeal filed by the applicant was finally decided on 02/05/2019 after the opinion of

the MPSC. The amounts of pensionary benefits were paid till 20/07/2020. The para-4 of the Exh-X is reproduced below –

०४. तसेच, श्री.देशमुख यांच्या प्रकरणी विभागीय आयुक्त, नाशिक विभाग, नाशिक यांच्याकडून माहिती प्राप्त करून घेतली, श्री.देशमुख यांना सेवानिवृत्तीनंतर प्रदान करण्यात आलेले लाभ पुढील प्रमाणे :-

अ.क्र.	अर्ज दिनांक	अर्जाचा तपशील
१.	१४.०९.२०१५	अंतिम भविष्य निर्वाह निधी रक्कम मिळणेबाबत
२.	१९.०३.२०१६	शासनाकडून ना हरकत प्रमाणपत्र प्राप्त करून घेणेबाबत
३.	३०.०५.२०१६	दि.१६.०३.२००३ ते दि.०२.०७.२००४ निलंबन कालावधीतील वेतन व भत्ते अदा करणेबाबत.
४.	०६.१०.२०१६	सेवानिवृत्तीनंतरचे सर्व लाभ प्रदान करणेबाबत.
५.	२९.१०.२०१६	निवृत्ती वेतन अंशदाना व रजावेतन अंशदान चलने सादर करण्यास अवधी मिळणेबाबत.
६.	१७.०३.२०१७	निवृत्ती वेतन अंशदान व रजावेतन अंशदान चलने सादर करणेबाबत तसेच तात्पुरते निवृत्तीवेतन देणेबाबत.
७.	१५.०५.२०१७	तात्पुरते सेवानिवृत्ती वेतन सुरु करणेबाबत.
८.	२३.०९.२०१९	निलंबन कालावधीतील शिल्लक वेतन व भत्ते, नियमित वेतनवाढी, अर्जित व वैद्यकीय रजेचा हिशोब करणेकामी
९.	०९.१०.२०१९	सेवापुस्तक अमरावती विभागास उपलब्ध करून देणेकामी.

➤ तसेच, श्री.देशमुख यांना माहे सप्टेंबर, २०१५ ते माहे, फेब्रुवारी, २०१६ या पहिल्या सहा महिन्यांचे तात्पुरते निवृत्ती वेतन रु.२,३७,३९५२/- धनादेश क्र.९५४९६५, दि.१०.११.२०१६ अन्वये अदा करण्यात आले.

- त्या पुढील तात्पुरते निवृत्तीवेतन मिळणेबाबतचा प्रस्ताव कार्यालयाकडील पत्र दि.०३.०५.२०१७ अन्वये मा.महालेखापाल, मुंबई यांचे कार्यालयाकडे सादर करण्यात आला. प्रकरणी दि.३१.०५.२०१७ अन्वये स्मरणपत्र देण्यात आले. त्यानुसार महालेखापाल, मुंबई यांचे कार्यालयाकडील पत्र दि.१४.०६.२०१७ अन्वये विभागीय चौकशी पूर्ण होईपावेतो तात्पुरते निवृत्तीवेतन मंजूर करण्यात आले.
- शासन आदेश दि.०७.०९.२०१९ अन्वये निलंबन कालावधी हा कर्तव्य कालावधी म्हणून नियमित केल्याने वेतनवाढीची परिगणना करून आदेश दि.१७.१२.२०१९ अन्वये वेतनवाढी सुधारीत करण्यात आल्या. तसेच सुधारीत ना हरकत दाखला मिळणेकाळी शासनास प्रस्ताव सादर केला.
- शासन आदेश दि.१३.११.२०१९ अन्वये सेवा कालावधीतल सर्व प्रकारचे लाभ देण्यास विभागीय आयुक्त, नाशिक हे सक्षम प्राधिकारी असल्याबाबत कळविले.
- शासन आदेश दि.२२.११.२०१९ अन्वये सुधारीत ना हरकत दाखला प्राप्त झाला. त्यानुसार श्री.देशमुख यांचा अंतिम सेवानिवृत्ती वेतन मिळणेबाबतचा प्रस्ताव कार्यालयीन पत्र

दि.०३.०२.२०२० अन्वये महालेखापाल, मुंबई यांचे कार्यालयाकडे सादर केला. त्या अनुषंगाने महालेखापाल, मुंबई यांचेकडील पत्र दि.०५.०३.२०२० अन्वये श्री.देशमुख यांचे अंतिम सेवानिवृत्ती वेतन रु.२०२१०/- व उपदान रु.६,०६,३००/- तसेच अंशराशिकरण रक्कम रु.७,७४,३१८/- मंजूर झाली.

- श्री.देशमुख यांना अर्जित रजा रोखीकरण रक्कम रु.७,४६,५१८/- प्रमाणक क्र.६९८, दि.२३.०७.२०२० अन्वये अदा करण्यात आली.
- श्री.देशमुख यांना अंतिम भविष्य निर्वाह निधी रक्कम रु.५,८९,९७१/- प्रमाणक क्र.१०२, दि.०५.१२.२०१५ अन्वये अदा करण्यात आली आहे.
- निलंबन कालावधीतील वेतन फरक रक्कम रु.६,२३,५४०/- प्रमाणक क्र.१२, दि.२०.०७.२०२० अन्वये अदा करण्यात आला.

9. In the case of **D.D. Tewari (dead) through Legal Representatives Vs. Uttar Haryana Bijli Vitran Nigam Limited and others (cited supra)**, the Hon'ble Supreme Court has held in para-3 that "the retiral benefits of the appellant were withheld by the respondents on the alleged ground that some amount was due to the employer. The disciplinary proceedings were not pending against the appellant on the date of his retirement. Therefore, the appellant approached the High Court seeking for issuance of a direction to the respondents regarding payment of pension and release of the gratuity amount which are retiral benefits with an interest at the rate of 18% on the delayed payments."

10. The cited decision is not applicable because in the cited decision there was no any disciplinary proceeding pending against the

appellant, but his pensionary benefit was not paid, therefore, the Hon'ble Supreme Court directed to pay the interest @ 18%.

11. In the case of **Sakharam Parasharam Ghaste Vs. Municipal Corporation of Brihanmumbai & Ano.**, the appellant challenged the order of punishment in departmental enquiry in Writ Petition No.1909/2003. The said Writ Petition was decided by the Hon'ble Bombay High Court on 16/06/2006. By the said order, punishment orders dated 27/9/2002 and 6/3/2003 were quashed and set aside. Thereafter also the pensionary benefits were not paid. The Petitioner Sakharam filed Writ Petition No.2952/2006. The Hon'ble Bombay High Court has held in para nos.17,18 and 19 as under –

*“ 17. Undisputedly the punishment orders dated 27.9.2002 and 6.3.2003 came to be set aside by an order dated 16.6.2006 by learned Single Judge of this Court in Writ Petition No. 1909/2003, which writ petition was filed challenging the punishment order dated 27.9.2002 of the Disciplinary Committee and order dated 6.3.2003 of the Appellate Authority. While setting aside the abovesaid orders, the learned Single Judge of this Court observed as under:*

*“ The impugned orders in the inquiry passed against the petitioner for the acts charged against him are therefore, seen to be perverse and made only with a view to harass the petitioner alone. Such orders therefore, cannot stand the test of justness. The charge against the petitioner cannot be seen to be made out in view of the sanction by the DMC himself. The facing of the injury of this dimension alone is itself punishment for the petitioner. The punishment awarded against the petitioner is wholly disproportionate to the acts for which he is charged. Such punishment cannot therefore, stand.”*

18. *The learned Single Judge directed the respondent-corporation to pay the pension to the petitioner within four months and to pay the full pension to him thereafter.*

19. *It is expected that all retiral benefits of an employee should be paid on the date of his retirement or so soon thereafter as reasonably possible if on account of any unforeseen circumstances, the payment could not be made on the date of retirement. It is noted that there was a change of seven inquiry officers in respect of the inquiry against the petitioner. The inquiry against the petitioner was kept pending for an unreasonably long period and that this act on the part of the respondent-corporation was not bonafide. Moreover, the learned Single Judge of this Court, has held that the orders in the inquiry were perverse and made only with a view to harass the petitioner. The deprivation of pension in absence of the petitioner being found 'guilty' of grave misconduct or negligence, at the relevant time, was not in accordance with Rule 14-B of The Mumbai Municipal Corporation Pension Rules 1953 which provides for withholding pension in certain cases only, and reads thus:*

*“Competent authority may, by order in writing, withhold or withdraw a pension or any part of it whether permanently or for specified period and also order the recovery from such pension, the whole or part of any pecuniary loss caused to the Corporation if in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during a period of his service including service rendered upon employment after retirement. Provided that if a part of pension is withheld or withdrawn, the amount of remaining pension shall not be reduced below the minimum pension fixed.”*

12. In the present case, the enquiry was pending against the applicant when he was retired in the year 2015. In the departmental enquiry, the punishment order was passed. The applicant has



challenged the punishment order before the Governor of Maharashtra. The said appeal was finally decided on 02/05/2019 and thereafter all the dues were paid to the applicant. In view of the provisions of Section 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982, there was no delay on the part of respondents, therefore, the applicant cannot claim interest. Hence, the following order –

**ORDER**

The O.A. is dismissed. No order as to costs.

**Dated** :- 06/12/2022.

dnk.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/12/2022.

Uploaded on : 07/12/2022\*