

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO. 666 OF 2015

DISTRICT : RAIGAD

Dr. Arun Ishwar Gawali,)
Aged 55 Yrs, Occ. Nil [Ex-Medical)
Officer], Civil Hospital,)
Ratnagiri, R/O. Gawali Hospital,)
Chendhare, Alibaug, Dist. Raigad.)...**Applicant**

VERSUS

- 1) The State of Maharashtra,)
Through Principal Secretary,)
Public Health Department,)
Having Office at Mantralaya,)
Mumbai - 400 032.)
- 2) The District Civil Surgeon,)
Civil Hospital, Ratnagiri.)...**Respondents**

Shri B.A. Bandiwadekar, the learned Advocate for the Applicant.

Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal, Vice-Chairman

DATE : 27.06.2016

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ORDER

1. Heard Shri B.A. Bandiwadekar, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.
2. This Original Application has been filed by the Applicant seeking fixation of regular pension, payment of gratuity and grant of medical leave from 1.3.2008 to 1.6.2008.
3. Learned Counsel for the Applicant argued that the Applicant had retired voluntarily from service with effect from 1.6.2008. This was confirmed by order dated 31.3.2009 in O.A.No.596 of 2008 by this Tribunal. Learned Counsel for the Applicant argued that the Applicant should have been paid all his retiral dues, including regular pension after the judgment of this Tribunal. However, the Respondents sanctioned provisional pension of Rs.14,249/- p.m. from 1.12.2008 till finalisation of the D.E. against the Applicant. In fact a criminal case no.111 of 2007 was registered against the Applicant and Learned Chief Judicial Magistrate, Ratnagiri by judgment dated 19.8.2014, acquitted the Applicant. No D.E. was pending against the Applicant. After his acquittal, he should have been paid regular pension and his gratuity should have been released.
4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the regular pension of Rs.13,659/-

p.m. has been sanctioned to the Applicant by the Accountant General, Maharashtra. His Gratuity amounting to Rs. 4,52,980/- has also been sanctioned. As regards commutation of pension, the proposal will be sent to A.G., after medical examination of the Applicant in J.J. Hospital. Learned P.O. has also placed on record a statement dated 25.2.2016, from the State Bank of India, Alibag Branch, giving the details of amounts of pension deposited in the Account of the Applicant. It appears that the Applicant has been receiving provisional pension in this account from 1.12.2008. As the Applicant was getting provisional pension in excess of his regular pension from 1.6.2008 to 30.9.2015, the amount of excess pension paid to him amounting to Rs.2,13,618/- has been recovered from his gratuity of Rs.4,52,980/- and the balance deposited in his account on 14.12.2015.

5. It is seen that the Applicant was getting provisional pension from 01.06.2008, though it was sanctioned in the year 2010. The Applicant's regular pension was sanctioned on 03.11.2015 and he has started getting it from the month of October 2015. His regular pension is fixed at Rs.13,659/- p.m. as sanctioned by A.G., but his provisional pension paid to him from 01.06.2008 to 30.09.2015 was Rs.14,249/- p.m. Excess amount has been adjusted from his gratuity. From the details submitted by the Respondents, it appears that retiral dues of the Applicant have been settled. As he was facing a criminal case, he was

not entitled to get regular pension. He was getting provisional pension which was in excess of his entitlement. In the circumstances, no case for grant of any interest is made out.

6. As all the retiral dues of the Applicant have been cleared, nothing survives in this O.A. and it is disposed of accordingly. It is hoped that the Respondents will ensure payment of commuted amount of pension to the Applicant as per rules.

Sd/-

RAJIV AGARWAL)
(VICE-CHAIRMAN)

Date : 27.06.2016

Place : Mumbai

Dictation taken by : SBA

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