

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 733 of 2018 (S.B.)

Sharad Laxman Naikale,
Aged about 62 years, Occ. Pensioner,
R/o Sawai Pura, Zenda Chowk, Achalpur,
Tq. Achalpur, Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-400 032.
- 2) The Chief Conservator of Forest and Field Director,
Melghat Tiger Project, Amravati,
Dist. Amravati.
- 3) The Deputy Conservator of Forests,
Sipna Wild Life Division Tiger Project,
Paratwada, Tq. Achalpur, Dist. Amravati.

Respondents.

Shri V.A. Kothale, Advocate for the applicant.
Shri H.K. Pande, P.O. for respondents.

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

Dated :- 04/07/2022.

JUDGMENT

Heard Shri V.A. Kothale, learned counsel for the applicant
and Shri H.K. Pande, learned P.O. for the respondents.

2. This O.A. is filed by the applicant for the following relief –

“(i) Order respondent to make payment of simple interest on amount of Rs. 9,44,949/- with effect from 01/12/2014 till realization in view of retirement dated 30/11/2014 from the post of Forester in the interest of justice”.

3. The applicant retired on 30/11/2014 from the post of Forester. The respondent no.2 recovered Rs.9,44,949/- from the pensionary benefit of the applicant. The applicant challenged the said order of respondent no.2 in O.A. No.101/2017 before this Tribunal. The said O.A. was decided on 9/10/2017. This Tribunal relying on the Judgment of Hon’ble Apex Court in case of **State Of Punjab & Ors vs. Rafiq Masih (White Washer)** decided on 18 December, 2014 in Civil Appeal No. 11527 of 2014 (Arising out of SLP(C) No. 11684 of 2012) directed the respondents to refund whatever amount recovered from the applicant under the garb that it was over paid to him. It was also directed to the respondents that the amount shall be refunded within three months from the date of order. As per the contention of the applicant, the amount was not refunded till 9/1/2018, therefore, he is entitled for interest as per the provisions of the Maharashtra Civil Services (Pension) Rules, 1982.

4. The O.A. is strongly opposed by the respondents. It is submitted that as per the direction of this Tribunal, the amount was to be refunded within three months, but the respondents moved before

this Tribunal by filing MCA No.77/2017. In MCA, this Tribunal passed the orders dated 12/3/2018 and 9/4/2018 which are reproduced as below -

“ MCA No. 77/2017 in O.A. 101/2017, order dated 12/03/2018 –

None for the applicant. Heard Shri M.I. Khan, the Ld. P.O. for the respondents.

2. *In this application, the respondents are claiming extension of time to comply with the order passed by this Tribunal in O.A.No. 101/2017. The order passed on 9.10.2017 in which three months time was granted for refund of excess amount recovered. By way of this application, the respondents are claiming six months time. Such a prayer cannot be considered, particularly when in the O.A., three months time was granted.*

3. *It is stated that the proposal has been submitted on 19.1.2018 to the Accountant General, Nagpur. The respondent No.1 is directed to state the details of the steps taken by it to comply with the order and they shall depute some person to get the order complied with. In case such an order is not complied with within four weeks, the respondent No.2 shall appear in person before this Tribunal and to file an affidavit.*

4. *S.O. four weeks.*

5. *Steno copy be provided to the Ld. P.O.”*

“ MCA No. 77/2017, order dated 09/04/2018 –

None for the original applicant. Shri M.I.Khan, Id. P.O. for the original respondents.

On 12/03/2018, the respondent no. 1 was directed to state that the details of the step taken by it to comply with the order and to depute some person to get the order complied with and it was specifically stated in O.A. that if such order is not complied within four weeks, the respondent no. 2 i.e. The Chief Conservator of Forest & Field Director, Melghat Tiger Project, Amravati will have to appear before the Court for filing affidavit.

The Id. P.O. submits that the respondents have complied with the order except some difference and he will file the short affidavit alongwith the necessary documents. The Id. P.O. further submits that the order will be complied on or before 05/05/2018. The respondents are directed to file short affidavit alongwith the necessary documents. For that condition time to comply the order of the Tribunal is extended till 05/05/2018. If the short affidavit is filed, the same will be taken on record. M.C.A. stands disposed of.

5. It is submitted by the side of respondents that all amount was paid in the month of May,2018, therefore, the applicant is not entitled for any interest.

6. The learned counsel for the applicant has submitted that the applicant is entitled for interest.

7. The learned P.O. has submitted that the applicant was paid all amount in the month of May,2018 itself. In para-12 the specific averments are made by the respondents. The para-12 is reproduced as below –

“(12) The respondent authority has made every possible efforts to comply the order within time. The respondent authority faced lot of administrative hurdles in disbursing huge amount of Rs.9.5 lakhs. In this case the respondent had to move the AG and the Dist. Treasury Officer for rectification in the earlier orders. However, the respondent succeeded in disbursing sum of Rs.3,17,120/- on 7/4/2018 and Rs. 2,52,780/- on 10/05/2018. The sum of Rs.3,07,780/- and 67,262/- payable from the Dist. Treasury have also been disbursed in the month of May,2018. The respondent authority has duly complied the order by disbursing aforesaid amount. It is submitted that the aforesaid transaction is not of regular nature. It may be noted that, over payments given to the applicant by two erroneous orders passed in the month of April,2011 and May,2011. This overpaid amount was credited to applicant’s account since the passing of orders mentioned above. The deduction of the above said over payment has been effected in the year 2017 while setting the pensionary benefits.”

8. As per the contention of the respondents, Rs.3,17,120/- was paid to the applicant on 7/4/2018. Rs.2,52,780/- was paid on 10/05/2018. Sum of Rs.3,07,780/- and Rs.67,262/- was disbursed in the month of May,2018 itself.

9. During the course of argument, the learned counsel for applicant Shri V.A. Kothale fairly submits that Rs.3,17,120/- was paid on 7/4/2018, Rs.2,52,780/- was paid on 10/5/2018 and amount of Rs.3,07,780/- and Rs.67,262/- was paid on 14/5/2018.

10. The learned P.O. has submitted that there is no any delay though the order passed by this Tribunal was extended to 5/5/2018, but due to official correspondence, there was some delay for payment of some amount. Moreover, the said amount was paid in the month of May,2018 itself.

11. The learned counsel for the applicant has submitted that as per the Rule 129 B of the Maharashtra Civil Services (Pension) Rules, 1982, the applicant is entitled for interest, there may be of one day interest. The Rule 129 B reads as under –

“ **129-B. Interest on delayed payment of Pension** :- (1) If the payment of pension has been authorized after six months from the date when its payment became due and it is clearly established that the delay in payment was attributable to administrative lapse, interest at the rate of 10 per cent per annum in respect of the period beyond six months shall be paid on the amount of pension:-----”

12. The learned counsel for the applicant has pointed out the Judgement in the case of **State of Maharashtra & Ors. Vs.**

Ravindranath Kautik Mohite, 2016 (6) MhL.J.,440 and submitted that the applicant is entitled for @ 18% interest.

13. As per the provisions of Rule 129 B of the Maharashtra Civil Services (Pension) Rules, 1982, the percentage is given @10% provided that when a Government servant established that delay was attributable to administrative lapses and therefore he is entitled for the interest. In the present matter, the recovery was started.

14. The applicant had filed O.A. 101/2017 contending that in view of the Judgment of **Hon'ble Apex Court in case of State Of Punjab & Ors vs. Rafiq Masih (White Washer)** amount which was recovered of Rs. 9,43,713/- as excess payment for wrong fixation was to be recovered from the respondent department. The said O.A. was allowed. The respondents were directed to refund the said amount in view of the Judgment of Hon'ble Apex Court in case of the Judgment of **Hon'ble Apex Court in case of State Of Punjab & Ors vs. Rafiq Masih (White Washer)**. The specific direction was given by this Tribunal to the respondents to refund the amount within three months. The amount could not be refunded within that period, therefore, the MCA No. 77/2017 was filed by the respondents. This Tribunal as per the order dated 9/4/2018 extended the time to refund the amount till 5/5/2018. The respondents have refunded amount of Rs.3,17,120/- on 7/4/2018 . The respondent could not pay the some amount

because of some administrative difficulties before 5/5/2018. The respondents have paid the amount of Rs.2,52,780/- on 10/5/2018 and amount of Rs.3,07,780/- and Rs.67,262/- on 14/5/2018 (as submitted by learned counsel Shri V.A. Kothale). It appears that there is some delay of 5 days and 9 days. In fact, the applicant was not entitled for the refund of the amount in view of the Judgment of Hon'ble Supreme Court in the case of **High Court of Punjab & Haryana & Ors. Vs. Jagdev Singh (2016) 14 SCC 267,** It appears that there was no any administrative lapses on the part of respondents. Hence, the applicant is not entitled for any interest. Therefore, I pass the following order –

ORDER

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

Dated :- 04/07/2022.

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 : 04/07/2022.

Uploaded on : 05/07/2022.

*