

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 92 of 2022 (S.B.)

Shri Narayan Gosai Matte,
Plot No.22, Behind Sai Baba Temple,
Opposite Sau Savita Lidhia's House, Chandrapur,
Tah: District. Chandrapur

Applicant...

-- Versus --

- 1) The State of Maharashtra through Secretary,
Department of Rural Development & Water Conservation,
Bandhkam Bhavan, 25 Marzban Road (Path),
Mumbai-400 001 (Maharashtra).
- 2) The Divisional Commissioner,
Nagpur Division, Civil Lines,
Nagpur-440 001 (Maharashtra).
- 3) The Chief Executive Officer,
Zilla Parishad, Gadchiroli (Maharashtra).
- 4) The Chief Executive Officer,
Zilla Parishad, Chandrapur (Maharashtra).

Respondents.

Shri K.J. Khanorkar, Advocate for the applicant.

Shri V.A. Kulkarni, learned P.O. for respondent nos.1 and 2.

None for respondent no.3.

S/Shri P.R. Rahulkar, G.G. Mishra, Advs. for respondent no.4.

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

Dated :- 01/08/2023.

JUDGMENT

Heard Shri K.J. Khanorkar, learned counsel for the applicant and Shri V.A. Kulkarni, learned P.O. for respondent nos.1 and 2. None for respondent nos.3 and 4.

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

The applicant was working as a Child Development Project Officer, Bhadrawati. He came to be retired on superannuation after completion of the age of 58 years on 30/11/2004. After retirement, the applicant was continuously requesting for payment of pension and gratuity, leave encashment etc., but the respondents have not paid the same. Ultimately, the respondents have paid the amount of leave encashment on 07/12/2015, the amount of arrears of pension on 08/12/2015 and the amount of gratuity on 02/06/2017. Therefore, the applicant approached to this Tribunal for directing the respondents to pay interest on the said amount.

3. The O.A. is opposed by the respondents. It is submitted that the applicant was absent from duty and his absence period was decided in the year 2013 and therefore there is a delay.

4. As per the submission of learned counsel for applicant, the applicant was absent in the year 2001, but that absence period was decided after the retirement, i.e., in the year 2013. The applicant was already retired on 30/11/2004. After 9 years, the respondents have decided the absence period. The respondents were at liberty to decide the absence period before the retirement of the applicant, no any explanation is given as to why break in service / absence period

was not decided before the retirement. There is a considerable delay in payment of pension and pensionary benefits.

5. The learned counsel for the applicant has pointed out the Judgment of the Hon'ble Supreme Court in the case of ***State of Uttar Pradesh and Others Vs. Dhirendra Pal Singh (2017) 1 SCC, 49*** and the Judgment in the case of ***Dr.A.Selvaraj Vs. C.B.M.College & Ors..2002 (3) SLR 13 (S.C.)***.

6. The Hon'ble Supreme Court in the case of ***State of Uttar Pradesh and Others Vs. Dhirendra Pal Singh*** (cited above) has held as under -

“Pension and gratuity are not any bounty to be distributed by Government to its employees on retirement but are valuable rights in their hands, and any culpable delay in disbursement thereof must be visited with penalty of payment of interest. Further held, in absence of any plea that delay in payment of retiral dues was due to employee's fault and employer had obtained permission in writing from controlling authority in terms of Section 7(3-A), Payment of Gratuity Act, 1972, appellants liable to pay interest @ 6% p.a. on unpaid pension amount from date it had fallen due and interest @ 8% p.a. on unpaid amount of gratuity from date of retirement of employee.”

7. There is nothing on record to show that the applicant was at fault for not paying the pension within time. It was the duty of the employer to decide the break in service before the retirement of the applicant. There are various Circulars issued by the Government to

submit the pension case before the retirement of the employee so that the employee should get the pension and pensionary benefits immediately after the retirement. The applicant was retired in the year 2004 and as per the submission of the applicant and the respondents, the amount of pension and gratuity etc. was paid in the year 2015 and 2017, i.e., after a long delay of 11-13 years. Hence, as per the Judgment of Hon'ble Supreme Court as cited above, the respondents are liable to pay the interest. Hence, the following order –

ORDER

- (I) The O.A. is allowed.
- (II) The respondents are directed to pay interest @ 6% p.a. on the unpaid pension amount from the date it had fallen due till the actual payment and interest @8% p.a. on the unpaid amount of gratuity from the date of retirement of the employee, till the actual payment.
- (III) The respondents are directed to calculate the amount of interest and pay the same to the applicant within a period of three months.
- (IV) No order as to costs.

Dated :- 01/08/2023.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

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 : 01/08/2023.