

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 28/2016

Tarachand Laxman Mankar,
Aged about 58 years,
R/o New Ashok Video, Arihant Colony,
Kudwa, Post Kidwa,
Tahsil and Distt. Gondia. -----

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Technical and Vocational Education Department
Mantralaya, Mumbai-440 032.
- 2) The Joint Director of Vocational Education and
Training , Regional Office,
Civil Lines, Nagpur.
- 3) The Principal, Industrial Training Insitute,
Gondpipri,
Distt. Chandrapur.
- 4) The Accountant General,
Maharashtra –II, Civil Lines,
Nagpur. -----

Respondents

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1. Shri M.R. Patil, Advocate for the applicant.
 2. Shri H.K. Pande, Presenting Officer for respondents .
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Coram:- J.D. Kulkarni : Vice-Chairman (J)

Dated : - 31/3/2017

ORDER

The applicant got retired voluntarily on 31/12/2011. Since the pensionary benefits were not released, he was required to file O.A. No.67/2013. In the said O.A., this Tribunal on 15/1/2015 was pleased to observe as under :-

“ In the above state of affairs the applicant submits that he wants to waive the claim of Rs.18,180/- because as per The Accountant General there is no document how that amount was credited. There is a document to credit Rs.15,605/-. As such the amount of Rs. 18,180/- cannot be released though it is meager amount.

The applicant undertakes to give such in writing before the Accountant General or concerned authority thereon. The Accountant General (R/4) to release the withheld amount of Rs.1,00,000/- after deducting the amount of Rs.18,180/- and balance be paid to the applicant within One Month from the receipt of undertaking/document of surrender letter given

by the applicant or from the date of the receipt of the order, whichever is earlier.

The applicant has claimed the interest, he has liberty to make the representation to authority claiming the interest.

With this direction the O.A. stands disposed of.”

2. According to the applicant, in spite of the directions given by this Tribunal as aforesaid, the respondents did not pay the amount to the applicant. The Tribunal directed the respondents to deduct an amount of Rs.18,180/- only from the amount of Rs.1,00,000/- which was withheld and to pay the rest of the amount of Rs.81,820/- with interest from the date of withholding till actual payment. But the respondents have paid only Rs.44,784/- to the applicant. The applicant is therefore, claiming interest on the various amounts from the date of his voluntary retirement i.e. 31/12/2011 onwards, which are as under :-

Sr. No	Particulars	Amount Rupees	Date of authorization of payment	Interest
1	General Provident Fund	1,66,907/-	12/6/2013	1 Yr.5 months
2	Cash of Earned Leave	2,50,907/-	12/6/2013	1 Yr. 5 months
3	Final Disbursement (DCRG)	2,24,348/-	31/7/2014	2 Yr.6 months
4.	Commutation Value of Pension	2,78,538/-	12/12/2014	2Yr.11 months
5	Family Pension January,2012	72,096/-	18/6/2013	1 Year
6.	Family Pension July, 2012	12,016/-	5/4/2014	1 Yr.9 months
7.	Family Pension August, 2012	57,964/-	4/6/2014	1Yr.10 months
8.	Family Pension Sept.,2012	12,548/-	14/7/2014	1Yr.10 months
9	Family Pension October, 2012	12,548	9/9/2014	1 Yr.9 months
10	Family Pension Nov.,2012	13,081/-	19/11/2014	2 Years
11	Family Pension from Dec.2012 to Nov.2014	3,68,866/	21/1/2015	2 Years 1 month

3. The Respondent No. 3 has filed reply-in-affidavit and tried to explain non-payment in para No. 3 of the affidavit-in-reply. It seems that the Respondent No. 3 is trying to shift the burden on the applicant and the departmental procedure.

4. The Respondent No. 4-Accountant General also filed reply-in-affidavit and submitted that the A.G. did not receive any reply from the concerned department. It seems from the reply of the A.G. that the A.G. is trying to shift the liability on the other respondents and states that there is no delay on his part for not paying the amount.

5. From perusal of the record and the documents placed on record so also on going through the application as well as contentions in the reply-in-affidavit, it seems to be an admitted fact that the applicant was not paid the amount entirely. This Tribunal vide order dtd. 15/1/2015 in O.A. No.67/2013, the order which has already been reproduced earlier, has directed the respondents to release the withheld

amount of Rs.1,00,000/- after deducting the amount of Rs.18,180/- and the balance was to be paid within one month from the date of receipt of the undertaking. The respondents however, paid the amount of Rs.44,785/- only. The difference of the remaining amount has been paid subsequently and there seems to be a delay in not paying the amount as per the order passed by this Tribunal. The Id. counsel for the applicant has placed reliance on the judgment reported in 2003(3) Mh.L.J.691 in the case of **Dattatraya Ramchandra Phadnis – Vs. State of Maharashtra and others.** In the said case, the Hon'ble High Court of Judicature at Bombay was pleased to observe that if the petitioner's pension is wrongly fixed and gratuity amount illegally detained, the petitioner is entitled to interest on amount of arrears of pension as well as gratuity in terms of Rule 129-A. of the Maharashtra Civil Services (Pension) Rules, 1982.

6. The respondents could not place on record any evidence to show that the applicant was responsible for the delay.

7. The applicant has given particulars of the delay on account of each item and the amount which paid late. In para 3 of the reply-in-affidavit filed by the Respondent No. 3, the respondents tried to justify the delay caused was on account of applicant's negligence. However, no evidence supporting such delay on the part of the applicant has been placed on record. In view thereof, I am satisfied that the applicant is entitled to claim interest on the delayed payment of pensionary benefits. Hence the following order :-

- a) The O.A. is partly allowed.
- b) The respondents are directed to verify the entries at Sr. Nos. 1 to 11 shown in the chart at para No. 4.7 and to calculate the proper amount and pay the same to the applicant along with interest as per the Maharashtra Civil Services(Pension) Rules, 1982.
- c) The respondents are also directed to make payment of GPF of Rs.37,035 which has been wrongly deducted alongwith interest as per the provisions in the Maharashtra Civil Services

(Pension) Rules, 1982. All the amount due shall be calculated and paid along with interest to the applicant within 3 months from the date of this order.

**(J.D. Kulkarni)
Vice-Chairman(J).**

Skt.