

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 339/2016.

Smt. Sanjivani Shripad Ranade,
Aged about 69 years,
Govt. employee, R/o Gurukrupa
Khtean Nagar, Akola. -----

Applicant.

Versus

The State of Maharashtra,
Through its Chief Secretary,
Department of Public Health,
Mantralaya, Mumbai

2. The Director of Health Services, M.S.,
Dental College Building Premises, Near GPO,
Behind VT Station, Mumbai.
3. The Dy. Director of Health Services,
Akola.
4. The Medical Superintendent ,
District Hospital for Women,
Akola. -----

Respondents.

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1. Shri A.C. Dharmadhikari, Advocate for the applicant.
 2. Shri M.I. Khan, Presenting Officer for the
Respondents.

CORAM : R.B. Malik : Member (J)

DATE : 13th February, 2017

ORDER

The O.A. is admitted and by consent taken up for final hearing forthwith.

2. This O.A. is made by a retired Govt. employee seeking interest on the amounts which according to her were unreasonably delayed.

3. I have perused the record and proceedings and heard Shri A.C. Dharmadhikari, the Id. counsel for the applicant and Shri M.I. Khan, the Id. P.O. for the respondents.

4. The facts insofar as they must be stated in order to resolve this controversy *inter alia* are that this applicant brought O.A. No.184/1996 (Smt. Sanjivani Shripad Ranade-Vs- State of Maharashtra and 3 others). The Hon'ble Member, Judicial made an order dtd. 17th November, 1998. It may not be necessary now for the purposes hereof to set out the details from that particular order which is at Annexure-A-1, page-31 of the paper book. The entire reproduction of para

15, page-48 of the paper book would make the whole position quite clear.

Para 15: “ Herein this case, even duty is caste on the petitioner to approach the Court and bring to the notice of the Court that she is without job for so many years and that she be directed to be accommodated somewhere immediately, in the interest of all. But, it appears that she also did not taken any steps by approaching the Court and thus, some fault also lies with the petitioner. Considering the facts and circumstances, I direct that the respondent-Government should treat the period between 2/9/85 to 10/3/1993 as a duty period. However, she will be entitled to half wages for this period as she did not work for this period. She will be entitled for increments, if any, during this period, H.R.A. and other admissible allowances etc. but she will not be able to claim interest thereon. The order shall be complied with within four months from the date of this order. With these directions, the petition is disposed off with no order as to costs. “

5. The present respondents challenged the above order of this Tribunal in W.P. No.1439/1999 (The State of Maharashtra and 3 others –vs. Smt. Sanjivani Shripad Ranade). It is a common ground that the Hon'ble High Court was pleased to grant stay to the order made by this Tribunal referred to and reproduced herein above. The copy of that stay order may not have been there but as I mentioned, it is a common ground that such an order of stay was granted by the Hon'ble High Court in 1999 or thereabout. A Division Bench of the Hon'ble Bombay High Court at Nagpur Bench decided that W.P. by the order dtd. 11th Sept., 2014, Annexure-A-II. The W.P. came to be dismissed with no order as to costs. The net result of the order of the Hon'ble High Court was that the order of this Tribunal was affirmed. Thereafter a lapse of some time took place and the dues were paid to the applicant. However, the applicant has made a grievance that the amounts having been paid belatedly, she would be entitled to the interest @ 18% p.a. No doubt, the Tribunal in its order made it clear that the applicant would not

be able to claim interest on the amount but that by itself can be no reason to summarily throw the O.A. out because one has to understand the case of the applicant that the amount under various heads were paid to her belatedly and Mr. Dharmadhikari, the Id counsel for the applicant told me that were that amounts paid in good time to the applicant that would have yielded returns to her. She having been deprived thereof, is now entitled to be paid interest.

6. That is only one aspect of the matter. Another aspect of the matter is as to whether in view of the stay granted by the Hon'ble High Court, if the amounts were not paid by the respondents, could it be taken exception to. The Id. P.O. quite understandably argued that that cannot be and he met with counter from Shri Dharmadhikari, the Id. counsel for the applicant. Mr. Dharmadhikari told me that once the W.P. was finally dismissed then the liability insofar as the respondents are concerned, would arise not from the date of the order of the Hon'ble High Court but from the date in the

year 1998, the significance of which date must have become clear.

7. Having given careful and anxious consideration to the rival submissions, I am afraid I am unable to agree with Mr. Dharmadhikari, the Id. counsel for the applicant. It is no doubt true that the judicial order made by this Tribunal brought in its wake, a duty to be performed by the respondents and that duty was to pay the amounts under various heads as it must have become clear by the order of this Tribunal reproduced herein above. Now, if the Hon'ble High Court was pleased to grant stay, then in my view, the liability to make immediate payment pending W.P. would get eclipsed as it were. It is not as if the non-payment was on account of any defiance or was in the nature of unauthorized retention. In that view of the matter, therefore, since the stay was operating, I do not think any liability could be fastened on the respondents for non-payment of the amounts under the various heads. It can by no strength of imagination be said that the respondents voluntarily and for no cause

whatsoever and may be even unreasonably withheld the payment. In fact the non-payment was as a result of the order of the Hon'ble High Court staying the operation of the order of this Tribunal and therefore, I find myself unable to concur with Mr. Dharmadhikari's submission that once the W.P. was dismissed, the liability to pay interest would arise from anterior date. In my opinion therefore, the claim for interest in obtaining set of circumstances cannot be successfully made. It appears however that the order of the Hon'ble High Court was dtd. 11/9/2014 and the Id. P.O. informs that the actual payment was made on 1/12/2015. Therefore, there was a delay of at least about 15 months. Even if it is accepted that there is inevitable delay, the whole period cannot be condoned and in my view interest at least for a period of 12 months will have to be paid. But in this set of facts, the rate of interest should be @ 12% p.a. and not 18% p.a. I therefore hold that the applicant is not entitled to the interest of the entire period post 1998 but she is entitled thereto only @ 12% p.a. for the period of 12 months. The

respondents are directed to calculate and pay to the applicant interest @ 12% p.a. on the amounts paid to her on 1/12/2015, within a period of 4 weeks from today. The O.A. is allowed only in these terms and no further with no order as to costs.

(R.B. Malik)
Member (J)

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