

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.280 OF 2020

DISTRICT: THANE

Shri Rajaram Tanku More ,)
Age 61 years, Retired from the of post of)
Dy. Director of Agriculture (Alibag), Raigad)
R/at C/o 212/206/A, Rohini Apartment,)
Omkar Builder and Developer, Vasind,)
Tal. Shahapur, Dist. Thane.)....**Applicant**

Versus

1. The State of Maharashtra, through)
Principal Secretary, (Agriculture),)
Agriculture, Animal Husbandry, Dairy)
Development & Fisheries Dept.,)
O/at 5th floor, Mantralaya, Mumbai.)
2. The Commissioner for Agriculture, (M.S.))
Pune, Central Building, 2nd Floor,)
Having Office at Pune, Pune-411001.)
3. The Divisional Joint Director of)
Agriculture, Thane Division, Having)
Office at Thane.
4. The District Superintendent of)
Agriculture officer, Dist. Nursery,)
Veshvi, Alibaug, Having Office at)
Alibaug, Dist. Raigad.).....**Respondents**

Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant.
Shri A. J. Chougule, learned Presenting Officer for the Respondents.

CORAM : SHRI A.P. KURHEKAR, MEMBER (J)

DATE : 14.10.2021

J U D G M E N T

The Applicant stands retired in 2016 but his retirement benefits were withheld due to Departmental Enquiry (D.E.) and because of recovery of Government dues. The D.E. has been completed and punishment of deduction of 6% pension has been imposed by order dated 03.11.2018 which has attained finality.

2. Shri Arvind V. Bandiwadekar, learned Counsel for the Applicant states that he has not challenged the punishment. However, he raised grievance of withholding of other retiral benefits.

3. This Original Application is filed for direction to the Respondents to release retiral benefits.

4. Shri A. J. Chougule, learned Presenting Officer has pointed out that Provident Fund is already paid and Provisional Pension is started but other retiral benefits namely Gratuity, Leave Encashment are withheld. Learned P.O. further submits that there are huge Government dues towards house loan advance, computer advance, credit cooperative society dues and penal charges for unauthorised occupation of Government quarter.

5. Letter dated 01.07.2021 by District Superintendent of Agriculture Office, Alibag sent to Divisional Joint Director of Agriculture, Thane (Respondent No.3) reveals that following are the Government dues against the Applicant :-

1.	Home Loan Advance with interest up to 31.05.2016	Rs.9,66,388/-
2.	Computer Advance	Rs.22,200/-
3.	Dues payable to Cooperative Credit Society	Rs.5,56,141/-
4.	Penalty for unauthorised use of Government accommodation	Rs.18,59,943/-
	Total	Rs.34,04,672/-

6. Whereas the amount payable to the Applicant shown in the letter is as under:-

1.	Gratuity	Rs.11,38,500/-
2.	Leave Encashment	Rs,6,90,000/-
3.	GIS	Rs.2,25,422/-
4.	Difference of 7 th Pay Commission	Rs.17,940/-
5.	Difference of pension as per 7 th Pay Commission	R.3,37,826/-
	Total	Rs.24,09,688/-

7. The letter further reveals that in the year 2009, the Applicant was compulsorily retired and in 2012, he was reinstated. He also seems to have been under suspension from 14.07.2003 to 03.09.2004. Thus, it appears that

there are huge Government dues which more than retiral dues payable to the Applicant. This seems to be the reason for withholding of retiral benefits.

8. Indeed, before retirement itself, the Respondents ought to have taken care of such situation so as to recover/ adjust the retiral dues against the Government dues. In this behalf, the Respondents were required to follow the provisions of Maharashtra Civil Services (Pension) Rules, 1982. Rule 134(1) of MCS (Pension) Rules, 1982 mandates that head of the office shall take steps to assess the dues, two years before the date of retirement of a Government servant and dues as assessed are required to be adjusted against the amount of retirement dues becoming payable to Government servant on his retirement. Whereas Rule 134(A) provides for recovery and adjournment for excess amount paid. It further provides, if the excess amount is high then it can be also recovered from the amount of pension after giving reasonable opportunity to the pensioner to show cause as to why amount due should not be recovered from him. Whereas, Rule 133 of MCS (Pension) Rules provides about the recovery or adjustment of dues pertaining to Government accommodation.

9. As such, the Respondents were required to take action after following due procedure as contemplated in Rule 133, 134 and 134(a) of MCS (Pension) Rules, 1982 but they did not take any such action which is attributable to their laxity.

10. Till date only correspondence seems to have been exchanged between one department to another department and no such final order has been passed which ought to have been passed much earlier.

11. This being the position, the grievance raised by the Applicant that his retirement benefits are withheld without any reason is totally untenable.

12. In this view of the matter, O.A. deserves to be disposed of with suitable directions since as of now there is nothing to be adjudicated for want of final order which is required to be passed by the Respondents.

13. Learned P.O. submits that the Respondents would pass the final order about recovery /adjustment in accordance to law within two months from today.

14. Learned Counsel for the Applicant submits that liberty be given to challenge the same.

15. The Respondents are directed to pass appropriate order about adjustment /recovery in accordance to law within two months from today and it be communicated to the Applicant within two weeks thereafter.

16. If the Applicant felt aggrieved by the same, he may avail legal remedy in accordance to law.

17. No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member(J)