

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 370 OF 2023

(Subject:- Pension & Pensionary Benefits/Interest on delayed Payments)

DISTRICT:-AURANGABAD

Bhagwan Vishwanath Bankar)
Age: 60 Years, Occu: Retired as A.S.I.,)
R/o: Navyug Colony, Bhimnagar,)
Bhavsingpura, Aurangabad.)
Mob. 9922915498.) **APPLICANT**

V E R S U S

- 1. The State of Maharashtra,**)
Through: The Secretary,)
Home Department, Mantralaya,)
Mumbai -32.)
- 2. The Superintendent of Police,**)
T.V. Centre Road, Cidco, N-10,)
Aurangabad.)
- 3. The Accountant General-II,**)
Civil Lines, Nagpur.) **RESPONDENTS**

APPEARANCE : Shri K.B. Jadhav, learned counsel for
the applicant.
: Shri A.P. Basarkar, learned Presenting
Officer for the respondent authorities.

CORAM : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

DATE : **20.03.2024.**

ORAL ORDER

Heard Shri K.B. Jadhav, learned counsel for the applicant and Shri Shri A.P. Basarkar, learned Presenting Officer for the respondent authority finally with consent at admission stage.

2. By way of filing this Original Application the applicant is seeking directions to respondents to pay his retiral benefits i.e. Regular Pension, amount of Commutation, amount of Leave Encashment and amount of Gratuity/D.C.R.G. to the applicant forthwith.

3. Learned counsel for the applicant submits that the applicant is getting provisional pension and during pendency of this Original Application, the applicant has received the Leave Encashment amount.

4. Learned counsel for the applicant submits that the applicant was initially appointed on 22.08.1983 on the post of Police Constable with the respondent No.2 and he was promoted on the post of Police Naik and thereafter on the post of Head Constable in the year 2000. In the year 2016, he was promoted on the post of A.S.I. The applicant came to be

retired on attaining the age of superannuation on 30.04.2021 from the office of respondent No. 2 as A.S.I.

5. Learned counsel for the applicant submits that while working as Police Constable, on 28.01.2000 Crime No. 3004/2000 came to be registered against the applicant under Section 7, 13 (1) (d) r/w 13 (2) of the Prevention of Corruption Act, 1988 in the Police Station, Gangapur, Dist. Aurangabad. In consequences thereof, the applicant came to be suspended from service on 10.02.2000 and reinstated in service on 07.03.2001.

6. Learned counsel for the applicant further submits that the Special Case No. 11/2000 came to be registered against the applicant before the Special Court, Aurangabad and the applicant came to be acquitted in connection with said case by the Special Court by judgment and order dated 08.07.2004. The State has preferred an appeal bearing Criminal Appeal No. 752/2004 before the Hon'ble High court of Bombay, Bench at Aurangabad against the order of acquittal and during pendency of this Original Application by judgment and order dated 15.01.2024, the Hon'ble High court of Bombay, Bench at Aurangabad has dismissed the said appeal.

7. Learned counsel for the applicant submits that no inquiry remained as against the applicant and he has not subjected to departmental enquiry independently. Learned counsel for the applicant submits that the respondents may be directed to pay the pensionary benefits to the applicant forthwith. The applicant is also seeking interest on the arrears of Regular Pension, amount of Commutation, amount of Leave Encashment and amount of Gratuity/D.C.R.G. from the date of retirement for which the applicant is ready to file representation before the respondent authorities and they may be directed to consider it in accordance with law.

8. Learned Presenting Officer for the respondents submits that the applicant is getting provisional pension at Rs. 24,800/- p.m. by order dated 24.05.2021 for a period of 01.05.2021 to 31.05.2022 and the proposal for extension of same till conclusion of judicial proceedings was forwarded and the office had also granted further extension.

9. Learned Presenting Officer for the respondents submits that due to pendency of criminal appeal against the applicant before the Hon'ble High Court, the retiral benefits could not be released to the applicant in view of Rule 130 (C)

of Maharashtra Civil Services (Pension) Rules, 1982. Learned Presenting Officer submits that in view of judgment and order passed in criminal appeal No. 752/2004 by Hon'ble High Court of Bombay, Bench at Aurangabad on 15.01.2024, the appropriate order may be passed.

10. In view of above, I am agree with the submissions made on behalf of the applicant that the retiral benefits of the applicant cannot be withhold by the respondents in terms of Rule 130 (C) of the Maharashtra Civil Services (Pension) Rules, 1982 as the criminal appeal preferred by the State against the judgment and order of acquittal passed by the trail Court also came to be dismissed by the Hon'ble High Court of Bombay, Bench at Aurangabad by judgment and order dated 15.01.2024.

11. So far as the interest on the delayed payment in respect of other benefits are concerned, the applicant may submit the application/representation in this regard to the respondent authorities and upon filing such representation, it would be just and proper for the respondents authorities to

decide the said representation at the earliest in accordance with law. Hence, the following order:-

ORDER

- (A) The Original Application is partly allowed.
- (B) The respondents are hereby directed to pay the regular pension, amount of Commutation and amount of Gratuity/D.C.R.G. to the applicant forthwith.
- (C) The applicant shall submit the application/representation for interest on the delayed payment in respect of other benefits and upon filing such representation, it would be just and proper for the respondent authorities to decide the said representation at the earliest in accordance with law.
- (D) In the circumstances, there shall be no order as to costs.
- (E) The Original Application is accordingly disposed of.

MEMBER (J)