

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.341/2022**

**DISTRICT:- AURANGABAD**

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Shaikh Shafiquedin Shaikh Ahmed,  
Age : 58 years, Occ : Retired,  
R/o. Plot No.28, New Ansar Colony,  
Lane No.2, Padegaon, Aurangabad.

**...APPLICANT**

**V E R S U S**

- 1) The State of Maharashtra,  
Through its Secretary,  
School Education and Sports Department,  
Government of Maharashtra,  
Mantralaya, Mumbai-400032.
- 2) The Deputy Director Education,  
Aurangabad Region, Near Bhadkal Gate,  
Aurangabad.
- 3) The Commissioner Education,  
Government of Maharashtra, Pune,  
Central Building, Pune.

**...RESPONDENTS**

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APPEARANCE :Shri P.D.Jarare, Counsel for  
Applicant.

:Shri V.R.Bhumkar, Presenting Officer  
for the respondents.

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**CORAM : JUSTICE P.R.BORA, VICE CHAIRMAN**

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**Decided on: 15-09-2023.**

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**O R A L O R D E R :**

1. Heard Shri P.D.Jarare, learned Counsel for the  
applicant and Shri V.R.Bhumkar, learned Presenting  
Officer appearing for the respondent authorities.

2. The applicant has preferred the present O.A. seeking interest on the arrears of pay and allowances paid to him belatedly. According to the applicant deemed date of promotion to the post of Junior Clerk to which he was entitled was not given to him because of the mistake occurred at the hands of the then Government officers, and resultantly, his pay was fixed on lower side.

3. Record reveals that the applicant had earlier filed O.A.No.752/2018 before this Tribunal. In the said O.A. direction was sought by the applicant against the respondents to decide the proposal dated 18-02-2017 sent by the Deputy Director of Education Aurangabad Region, Aurangabad to the office of Director of Education Maharashtra, Pune for granting deemed date promotion to the applicant w.e.f. 04-02-1993. In the affidavit in reply filed on behalf of the respondents in the said matter when it was revealed that the said proposal was under consideration of respondents, the said O.A. was disposed of with direction to the respondents to take appropriate decision on the proposal dated 18-02-2017 as mentioned

hereinabove. 3 months' time was stipulated for deciding the said proposal.

4. As is revealing from the averments in the present O.A., representation was decided in favour of the applicant. Vide order dated 23-05-2019 the applicant was given deemed date of promotion as 04-02-1993 as Junior Clerk and the relevant entries were then taken in his service book. Thereafter, pay fixation was also done by giving benefit of Assured Career Progression Scheme after 12 and 24 years, respectively. Arrears which were determined to be payable to the applicant were paid by the respondents sometime in March, 2020. The applicant has preferred the present application claiming interest on the said amount paid to him belatedly.

5. It is the contention of the applicant that amount to which the applicant was entitled since 1993 and onwards were released in his favour after about 29 years. It is further contended that as has been expressly admitted by the respondents, earlier deemed date was not correctly given to the applicant because of some wrong interpretation of the rules by the then officer. The

applicant has relied on the G.R. dated 22-11-1994 in support of his prayer for interest on the delayed payment of the emoluments for which he was entitled to. Learned Counsel for the applicant invited my attention to the provisions of the said G.R. He read out paragraph 2 of the said G.R., which is thus:

“२. पदोन्नती, मानीव दिनांक किंवा वेतन पुर्नरचनेरंतर वेतनश्रेणीची पुर्नसुधारणा इत्यादिमूळे होणारी वेतननिश्चिती:

पदोन्नती किंवा वेतन पुर्नरचनेनंतर वेतनश्रेणीची पुर्नसुधारणा या संबंधीचे आदेश निर्गमित झाल्याच्या दिनांकापासून किंवा मानीव दिनांक देण्यास शासनाने मान्यता दिल्यासंबंधीचे आदेश/सूचना निर्गमित झाल्याच्या दिनांकापासून सहा महिन्यांनंतर त्यासंबंधीची थकबाकी अदा करण्यात आली असल्यास संबंधीत आदेश निर्गमित झाल्याच्या दिनांकापासून सहा महिन्यांनंतरच्या कालावधीकरिता व सदर रक्कम अदा करण्यात आली असेल त्या महिन्याच्या आधीच्या महिन्यापर्यंत व्याज अदा करण्यात यावे.”

6. Learned Counsel submitted that having regard to the aforesaid G.R. the applicant is entitled for the interest of the entire period of delay which has occasioned in remittance of the said amount to the applicant. Learned Counsel submitted that the applicant had submitted representations dated 22-12-2020 and thereafter on 11-02-2021, however, respondents have not responded to the said representations. Learned Counsel submitted that

in such circumstances, applicant had to again approach this Tribunal.

7. Respondent nos.1 to 3 have filed their affidavit in reply and contended that the delay which has occasioned in making payment of the arrears was not deliberate or intentional, and as such, respondents cannot be held liable to pay the interest. Except the aforesaid averments, no other defense has been raised by the respondents in so far as the request for interest on delayed payment is concerned.

8. I have duly considered the submissions made on behalf of the applicant and the learned P.O. I have also gone through the provisions of the G.R. dated 22-11-1994. It is not in dispute that the applicant was not given the correct deemed date of promotion which ought to have been given to him in the year 1993, and ultimately, dispute was redressed in the year 2019 and the deemed date was given to the applicant vide order passed on 23-05-2019. It is further not in dispute that the respondents have also paid monetary benefits which consequentially flown in favour of the applicant because of the deemed date given to

the applicant with retrospective effect. The monetary benefits are paid to the applicant as is revealing from the contentions in the O.A. sometime in March, 2020.

9. The only question requires to be considered is whether the applicant is entitled for grant of interest and if yes from which date ?

10. Though, it has come on record that deemed date, earlier given to the applicant was not correctly given to the applicant because of the mistake committed by then officer concerned in interpreting the provisions at the relevant time, as is revealing from the pleadings and in view of the information provided by learned Counsel to the query made by me, the grievance as about not giving the correct deemed date was raised by the applicant sometimes in the year 2017. Thereafter, some progress has occurred and ultimately in 2019 the deemed date came to be granted in favour of the applicant. While considering the entitlement of the applicant for receiving interest the delay committed by the applicant in seeking redressal of his grievance cannot be lost sight of. If it is the case of the applicant that he was entitled for the deemed date w.e.f.

1993, the questions arise why he did not move appropriate authority promptly and within time, and secondly, if appropriate authority did not take any decision why he did not approach the appropriate judicial forum diligently.

11. From the record, it is further revealed that the respondent State in the earlier round of litigation instead of taking any false defense came out with true statement and admitted the mistake which has been committed by the officer concerned at the relevant time and also undertook to make good the monetary losses suffered by the applicant. It appears to me that had the grievance raised immediately by the applicant, perhaps, it could have been resolved earlier. As such, it is difficult to hold the applicant entitled for interest w.e.f. 1993 as has been claimed by him. Interest is payable for culpable delay. The question of grant of interest, therefore, may not arise in the present matter w.e.f. 04-02-1993 when the applicant himself did not initiate any action till the year 2017. Applicant is disentitled from claiming the interest w.e.f. 04-02-1993, because of undue delay by him in approaching the authority concerned and/or Tribunal for redressal of his grievance.

12. If the G.R. which is relied upon by the applicant is read and interpreted in proper perspective, it provides that in case deemed date has not been given or allotted to the concerned employee at the time when it was liable to be given, the applicant shall be held entitled to the arrears thereof and in so far as the interest is concerned, it is said that, if the arrears are not paid within the period of 6 months from issuance of the order granting deemed date, Government shall be liable to pay interest on the amount of arrears. Under the aforesaid G.R., the applicant becomes entitled for the interest from the date 23-11-2019 as the order granting deemed date to the applicant for his promotion on the post of Junior Clerk was issued on 23-05-2019 but consequent arrears were not paid within six months thereafter.

13. However, as has been rightly pointed out by the learned Counsel for the applicant, the then Deputy Director of Education, Aurangabad region, had forwarded the proposal for grant of deemed date of promotion to the applicant w.e.f. 04-02-1993 to the Director of Education, Maharashtra State, Pune on 18-02-2017. It is



the matter of record that said proposal was not considered by the said office for the period of more than a year and hence the applicant was required to approach this Tribunal by filing O.A.No.752/2018. This Tribunal gave direction to the concern authorities to take decision on the said proposal dated 18-02-2017 within 3 months while disposing of the said O.A. on 05-10-2018. Thereafter also the authorities took some more time and ultimately the Government order came to be issued on 23-05-2019, thereby giving the deemed date of promotion w.e.f. 04-02-1993 as was proposed by the Deputy Director of Education, Aurangabad region in his proposal dated 18-02-2017.

14. Having regard to the facts as above, it is evident that deemed date was in fact determined as 04-02-1993 on 18-02-2017 by the then Deputy Director and accordingly the proposal was forwarded by him for approval to the Director of Education, Pune. As such, the deemed date must be deemed to have granted / determined on 18-02-2017 and the applicant was entitled to receive the arrears within six months therefrom i.e. on or before 17-08-2017. Since, neither the deemed date was granted

nor the arrears were paid to the applicant before the said date, I hold him entitled to receive interest from the said date till the arrears were actually paid to him. The applicant has not provided the exact date in March, 2020 on which the arrears were paid to him. The applicant has also not disclosed the amount of arrears. In the circumstances, interest can be granted from 17-08-2017 till 01-03-2020 on the amount of arrears which are paid to the applicant. Hence, the following order:

*ORDER*

[i] Respondents are directed to pay interest @ 8% per annum, on the amount of arrears paid by them to the applicant, for the period from 18-08-2017 till 01-03-2020, within 12 weeks from the date of this order.

[ii] O.A. stands allowed in the aforesaid terms, however, without any order as to costs.

**VICE CHAIRMAN**

**Place : Aurangabad**  
**Date : 15.09.2023.**