

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.97 OF 2021**

**DISTRICT : LATUR**

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Shahaji s/o. Waghambar Surwase,  
Age : 60 years, Occu. : Retired Head Constable,  
R/o. Mataji Nagar, Basweshwar Chowk,  
Tq. Kavha Road, Latur,  
Tq. Latur, Dist. Latur.

**...APPLICANT**

**V E R S U S**

1) The Superintendent of Police,  
Latur, S.P. Office Latur,  
Tq. & Dist. Latur.

2) The Accountant General II,  
Maharashtra State,  
Civil Lines, Nagpur.

**...RESPONDENTS**

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**APPEARANCE** : Shri V.D.Godbharle, Counsel for  
Applicant.

: Shri I.S.Thorat, Presenting Officer  
for the respondents.

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

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**DECIDED ON : 25.01.2023.**

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

1. Heard Shri V.D.Godbharle, learned Counsel for the  
applicant and Shri I.S.Thorat, learned Presenting Officer  
representing respondent authorities.

2. Only grievance of the applicant in the present O.A. is that on the ground of pendency of the criminal prosecution against him, he has not been paid amount of leave encashment though he has retired on 30-06-2019 on attaining the age of superannuation. Learned Counsel for the applicant brought to my notice sub-rule 6(a) of Rule 68 of the Maharashtra Civil Services (Leave) Rules, 1981, it reads thus:

**“68. Cash equivalent of leave salary in respect of earned leave at the credit at the time of retirement on superannuation,- (1) The authority competent to grant leave shall suo motu sanction to a Government servant who retires on attaining the age of superannuation, the cash equivalent of leave salary in respect of the period of earned leave at his credit on the date of his superannuation, subject to a maximum of 300 days.**

(2) .....

(3) .....

(4) .....

(5) .....

(6) (a) The authority competent to grant leave may withhold whole or part of cash equivalent of earned leave in the case of a Government servant who retires from service on attaining the age of

*retirement while under suspension or while disciplinary or criminal proceedings are pending against him, if in the view of such authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. On conclusion of the proceedings, he shall become eligible to the amount so withheld after adjustment of Government dues, if any.”*

3. In their affidavit in reply respondents have not come out with any such case that the competent authority has passed any order expressing an opinion or recording the conclusion that there is possibility of some money becoming recoverable from the applicant on conclusion of the criminal prosecution pending against him. In absence of any such defence raised by the respondents, the applicant cannot be deprived from the payment of leave encashment. Though the applicant has also claimed interest on the amount of leave encashment alleging that the same has not been paid within stipulated period, I am not inclined to accept the request for the reason that there appears no deliberate intention of the respondents in not making the said payment till date. The amount has not been paid on bona fide belief that criminal prosecution is

pending against the applicant. In the circumstances, application deserves to be partly allowed. Hence, the following order:

ORDER

[i] Respondents shall release the amount of leave encashment due to the applicant as per record available with them within a period of 8 weeks from the date of this order or else said amount will carry interest @ 9% p.a.

[ii] However, request for grant of interest till date is rejected.

[iii] Original Application stands partly allowed without any order as to costs.

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 25.01.2023.**