

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 146 / 2017 (S.B.)**

Shri Madhao Arjun Khutemate,  
Aged about 63 years,  
Occupation- Retired, State Pensioner,  
R/o Shriram Nagar (Tukum), Chandrapur,  
Tahsil and District Chandrapur.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Through its Secretary,  
Ministry of Revenue,  
Mantralaya, Mumbai.
- 2) The Settlement Commissioner,  
and Director of Land Record,  
Pune, Maharashtra.
- 3) The Deputy Director of Land  
Record, Nagpur Region, Nagpur.
- 4) The Deputy Superintendent of  
Land Record, Chandrapur.

**Respondents**

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**Shri S.N.Gaikwad, the Id. Advocate for the applicant.**

**Shri M.I.Khan, the Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.**

**Dated :- 29/09/2022.**

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**JUDGMENT**

Heard Shri S.N.Gaikwad, Id. counsel for the applicant and  
Shri M.I.Khan, Id. P.O. for the Respondents.

2. The applicant has joined his service on 08.11.1974 on the post of Surveyor. Considering his excellent performance he was awarded two advance increments as per order dated 01.10.1990. The applicant voluntarily retired on 31.05.2011. The establishment of the applicant submitted pension case to the Accountant General, Nagpur. The A.G., Nagpur raised objection that the applicant was not entitled for the advance increment and consequently pension of the applicant was reduced. It was directed by Accountant General, Nagpur that the excess amount of Gratuity i.e. Rs. 19,570/- to be recovered from the applicant.

3. Original application is opposed by the respondents.

4. As per the submission of the applicant, applicant was not given the amount of gratuity and other pensionary benefits and, therefore, he approached to this Tribunal for setting aside the impugned order about the recovery in respect of advance increment granted to him. As per the Judgment of this Tribunal dated 27.01.2020 in O.A. No. 146/2017, the original application was allowed and recovery was set aside relying on Judgment of **Hon'ble Apex Court in case of State Of Punjab & Ors vs. Rafiq Masih (White Washer) decided on 18 December, 2014** in Civil Appeal No. 11527 OF 2014 (Arising out of SLP(C) No.11684 of 2012). The recovery started by the respondents was quashed and set aside, but inadvertently this Tribunal not decided in respect of other prayers i.e. 1-c, 2-a & 2-b. Judgment of this Tribunal dated 27.01.2020 was challenged before Hon'ble High Court Bombay, Bench at Nagpur in W.P.No. 2122 of 2022. The Hon'ble High Court directed to this Tribunal to decide prayer clause nos. 1-c, 2-a and 2-b. Now, this Tribunal has to decide as to whether the applicant is entitled for interest on the amount of Gratuity, Pension etc. as per prayer.

5. As per submission of Id. Counsel for the applicant, applicant was not at fault, therefore, he is entitled for the interest as per Rule 129 (a) of the Maharashtra Civil Services (Pension) Rules, 1982. He has pointed out the Judgment of Hon'ble High Court in the case of **Vinodkumar N. Dixit Vs. State of Maharashtra 2018 (6) Mh.L.J. 696**. The applicant is entitled for interest as per Rule 129 (a) of the Maharashtra Civil Services (Pension) Rules, 1982.

6. Ld. P.O. has objected to grant prayer clause 1 (c). However, ld. Counsel for the applicant has pointed out that the pension case submitted by the Deputy Director, Land Record, Nagpur to Accountant General Office. As per office order dated 07.06.2012, Deputy Director of Land Record has fixed his pension of Rs. 18,220. Recovery as per the direction/ order of Accountant General is already set aside by this Tribunal. Hence, prayer clause 1 (c) to be granted.

7. As per the submission of ld P.O. the recovery amount is already paid to the applicant, therefore, he is not entitled for the interest.

8. The applicant was not yet at fault, therefore, amount of gratuity was to be paid to the applicant as per Rule 129 (a) of Maharashtra Civil Services (Pension) Rules, 1982. The Hon'ble Bombay High Court in the case of **Vinodkumar N. Dixit Vs. State of Maharashtra 2018 (6) Mh.L.J. 696** has held that the employees is entitled to get interest as per the provisions of Rule 129 (a) of Maharashtra Civil Services (Pension) Rules, 1982.

9. In the present case the applicant was granted two advance increments as per order dated 24.09.1980, therefore, Accountant General raised objection and directed to re-fix the pay of the applicant by taking two advance increments. On that basis the recovery was made. Ld.

Counsel for the applicant relying on the Judgment in the case of **Hon'ble Apex Court in case of State Of Punjab & Ors vs. Rafiq Masih (White Washer) decided on 18 December, 2014 in Civil Appeal No. 11527 OF 2014 (Arising out of SLP(C) No.11684 of 2012)**. This Tribunal has directed the respondents to refund the amount of Rs. 19,570/- along with interest @ 6% from the date of recovery till realization.

10. The applicant is claiming interest on the amount of gratuity, pension etc. as per prayer clause nos. 1-c, 2-a and 2-b. The applicant is entitled for interest as per Maharashtra Civil Services (Pension) Rules, 1982. Hence, the following order:-

#### **O R D E R**

- A) The O.A. is allowed in terms of prayer clause 1-c, 2-a and 2-b.**
- B) The respondents are directed to pay interest to the applicant as per the provisions of Rule 129 (a) and 129 (b) of Maharashtra Civil Services (Pension) Rules, 1982.**
- C) Hence, O.A. is disposed of with no order as to costs.**

**Vice Chairman**

**Date:-29/09/2022.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 29/09/2022.  
and pronounced on

Uploaded on : 30/09/2022.