

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.138 OF 2019  
(Subject:- Interest on Delayed Payment)**

**DISTRICT:-PARBHANI**

**Dnyanoba Kondibarao Ovhal,** )  
Age:- 68 years, Occ. Retired Tahsildar, )  
R/o. Sarnath Colony, Dhar Raod, )  
Parbhani, Dist. Parbhani. )....**Applicant**

**V E R S U S**

- 1. The State of Maharashtra,** )  
Through its Secretary, )  
Revenue and Forest Department, )  
Maharashtra State Mantralaya, )  
Mumbai-32. )
- 2. The Divisional Commissioner,** )  
Aurangabad Division, Aurangabad. )
- 3. The Collector, Latur,** )  
Dist. Latur. )...**Respondents**

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**APPEARANCE** : Shri D.T. Devane, learned Advocate  
for the Applicant.

: Shri V.R. Bhumkar, learned  
Presenting Officer for the  
Respondents.

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**CORAM** : **SHRI V.D. DONGRE, MEMBER (J)**

**DATE** : **20.12.2021.**

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**O R D E R**

1. By invoking the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, this Original Application is filed seeking interest as per Rules on the delayed payment of gratuity of Rs.2,40,075/- and 1,60,545/- received on 01.03.2018 and delayed payment of difference of pension amount of Rs.2,35,106/- received on 06.03.2018.

2. **The facts in brief giving rise to this application are as follows:-**

(i) The applicant retired as Tahsildar on superannuation on 30.09.2008 while he was working on the post of Tahsildar. About two months before the retirement, the departmental enquiry was initiated against him by the respondents by serving on him memorandum of charges on 11.07.2008. The charges in the said memorandum pertained to for the period from 01.04.2001 to 02.04.2005. The enquiry officer conducted the enquiry in respect of the said charges. He came to the conclusion that none of the charges were proved against the applicant. The said enquiry report was submitted by the enquiry officer to the

respondent No.2 i.e. Divisional Commissioner, Aurangabad, who forwarded the said report to the respondent No.1 on 04.03.2011 for necessary action. The respondent No.1 did not accept the said enquiry report. Instead, *de-novo* enquiry was ordered against the applicant vide letter dated 10.03.2015. The applicant challenged the said letter dated 10.03.2015 before this Tribunal by filing the Original Application No.140/2016. After hearing both the parties, the said Original Application was decided by this Tribunal by order dated 20.10.2016 (Annex. 'A-1'). Thereby the order of de-novo enquiry was set aside. Being aggrieved by the said order, the respondents challenged the said order dated 20.10.2016 by filing the Writ Petition No.3733/2017 before the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad. The said Writ Petition was dismissed by the Hon'ble High Court Bench at Aurangabad vide order dated 08.08.2017 (Annex. 'A-2'). Even after dismissal of the said Writ Petition, the respondents did not pay pensionary benefits to the applicant. The applicant, therefore, filed the Contempt Petition No.02/2018 before this Tribunal for the payment of pensionary benefits.

(ii) It is further submitted that even after the decision of the Tribunal vide order dated 20.10.2016 (Annex. 'A-1'), the respondents illegally continued the departmental enquiry against the applicant afresh. The enquiry officer again continued and completed the enquiry and held that charges were not proved against the applicant and submitted his report dated 27.05.2017 to the Divisional Commissioner, Aurangabad. The said report then was forwarded to the Government by letter dated 20.06.2017 for appropriate decision. In that respect, the Competent Authority issued show cause notice to the applicant calling explanation on the enquiry report dated 27.05.2017. The applicant submitted his explanation vide reply dated 01.11.2017 (Annex. 'A-3' collectively). Thereafter, the respondents finally issued order dated 25.01.2018 (Annex. 'A-4'), exonerating the applicant after filing of Contempt Petition by the applicant before the Tribunal. The respondents ultimately paid the amount of gratuity and amount of difference of pension to the applicant in the month of March, 2018. The applicant received two cheques of Rs.2,40,075/- and Rs.1,60,545 towards gratuity on

01.03.2018 and he received amount of difference of pension of Rs.2,35,106/- on 06.03.2018.

(iii) In the circumstances as above, it is the contention of the applicant that there is delayed payment of pensionary benefit due to administrative reasons on the part of the respondents. Hence, the applicant is entitled for interest on delayed payment of pensionary benefit as per Rule 129-A and 129-B of Maharashtra Civil Services (Pension) Rules, 1982 and as per G.R. dated 24.04.1995.

(iv) The applicant, therefore, submitted application dated 16.03.2018 (part of Annex. 'A-6' collectively) seeking 12 percent compound interest on the delayed payment. He also submitted reminders dated 07.05.2018, 20.08.2018 and 01.01.2019 (Annex. 'A-7' collectively) to the respondents. The respondents did not respond to these representations. Hence, this Original Application.

3. Affidavit-in-reply is filed on behalf of the respondent No.3 by Shri Arvind Shriniwasrao Narsikar, Tahsildar, Chakur, District-Latur. He thereby denied the adverse contentions raised in the Original Application. He, however, admitted the facts regarding holding of departmental enquiry and exonerating the

applicant from the charges thereof. But it is denied that there was delayed payment of pensionary benefits due to false administrative reasons. The payment of pensionary benefit is made after finalization of the departmental enquiry held against the applicant. Therefore, the application is liable to be dismissed.

4. I have heard the arguments advanced by Shri D.T. Devane, the learned Advocate for the applicant on one hand and Shri V.R. Bhumkar, learned P.O. for the respondents on other hand.

5. Learned Advocate for the applicant submitted that when the applicant has been exonerated in the departmental enquiry, the applicant shall be entitled for interest on delayed payment of gratuity and pensionary benefits in accordance with provisions of Rule 129-A and 129-B of Maharashtra Civil Services (Pension) Rules, 1982 and in accordance with the G.R. dated 24.04.1995 (page no.46 of paper book, part of Annex. 'A-6' collectively) issued by the Finance Department. He submitted that the applicant is entitled for interest on delayed payment of gratuity and pension from the date of his retirement. To support his submission, he has placed reliance on the judgment of Hon'ble Bombay High Court rendered in **Writ Petition No.12966/2017** in the matter

of **Vinodkumar Narayan Dixit Vs. The State of Maharashtra**

decided on 03.04.2018.

6. *Per contra*, learned P.O. for the respondents submitted that immediately after completion of departmental enquiry, the applicant has been paid all the pensionary benefits and it cannot be said that there was lapses on the part of the respondents in not paying the pensionary benefits in time.

7. After having considered the rival submissions and the facts on record, it is evident that the applicant retired while serving on the post of Tahsildar on superannuation on 30.09.2008. About two months before his retirement on or about 11.07.2008, memorandum of charges was served upon the applicant for the alleged misconduct of the applicant for the period of 01.04.2001 to 02.04.2005. The Enquiry Officer after conducting the departmental enquiry submitted the report dated 04.03.2011 to the respondent No.2 stating that the charges were not proved against the applicant. The respondent No.2 i.e. Divisional Commissioner, Aurangabad submitted the said report to the respondent No.1. The respondent No.1 did not accept the said report and ordered *de-novo* enquiry against the applicant vide letter dated 10.03.2015. The applicant challenged the said *de-*

*novo* enquiry by filing the Original Application No.140 of 2016 before this Tribunal. The said Original Application was decided by the order dated 20.10.2016 and the order of *de-novo* enquiry was set aside. The respondents challenged the said order dated 20.10.2016 by filing Writ Petition No.3733/2017 before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad. Meanwhile, *de-novo* enquiry proceeded against the applicant. Again enquiry officer held that the charges were not proved against the applicant and submitted his report dated 27.05.2017. The Writ Petition No.3733/2017 was decided vide order dated 08.08.2017 (Annex. 'A-2'). The same was dismissed observing that in the *de-novo* enquiry also the charges were not proved against the applicant. Hence, the applicant was exonerated.

8. The respondents, however, after filing the Contempt Petition No.02/2018 by the applicant before this Tribunal, finally issued order dated 25.01.2018 (Annex. 'A-4'), ordering payment of pensionary benefits. Accordingly, the applicant received two cheques in respect of gratuity of Rs.2,40,075/- and Rs.1,60,545/- on 01.03.2018. The applicant further received the amount of difference of pension of Rs.2,35,106/- on 06.03.2018.



9. The applicant is seeking interest on these delayed payments in accordance with the provisions of Rule 129-A of MCS (Pension) Rules, 1982 which deals with gratuity and Rule 129-B of MCS (Pension) Rules, 1982 which deals with pensionary benefits.

10. As regards the entitlement of the applicant for interest on delayed payment of gratuity and pensionary benefits, he has relied upon the judgment and order dated 03.04.2018 passed by the Hon'ble Bombay High Court in **W.P.No.12966 of 2017** in the matter of **Vinodkumar Narayan Dixit Vs. The State of Maharashtra**. In paragraph No.35 the ratio is laid down as follows:-

*“35. In Prabhakar Dalal (supra), the Division Bench of this Court, in the context of Rules, 129A, 130(1) (c) of the MCS (Pension) Rules, 1982 and GR dated 23<sup>rd</sup> June 1986 has held that paragraph 3 of the GR will have to be construed to mean that on a person against whom disciplinary or judicial proceedings were pending, if he is discharged or the disciplinary authority comes to the conclusion that no punishment needs to be imposed and in case of judicial authority, such authority acquits such person, than in those cases, on the competent authority authorising the release of gratuity, it will be presumed that the gratuity is deemed to*

*have been fallen due on the date immediately following page 22 of 24 skc JUDGMENT -WP-12966-17 the date of retirement for the purpose of interest. The Division Bench has commended harmonious construction of the statutory rules and the executive instructions in the GR, so that executive instructions would not fall foul of the rules.”*

11. In view of above, the abovesaid ratio laid down in the said citation would be applicable in the present case also. Hence, the entitlement of gratuity and pensionary benefit for the applicant would be from the date of his retirement i.e. from 30.09.2008. As regards the entitlement of gratuity amount, the applicant would be entitled for interest for the period beyond three months from his date of retirement till it's actual payment on 01.03.2018 in terms of Rule 129-A of M.C.S. (Pension) Rules, 1982. Moreover, the applicant would also be entitled for interest on delayed payment of difference of pension of Rs.2,35,106/- which he received on 06.03.2018 for the period beyond six months from the date of his retirement till 06.03.2018 in terms of Rule 129-B of M.C.S. (Pension) Rules, 1982. The said Rules provide for the rate of interest of General Provident Fund. I compute the interest @ 9% p.a. Accordingly, I proceed to pass following order:-

**ORDER**

The Original Application is allowed in following terms:-

- (i) The respondents do pay the amount of interest at the rate of 9% p.a. on the delayed payment of gratuity of Rs.2,40,075/- and Rs.1,60,545/- for the period beyond three months from the date of retirement of the applicant dated 30.09.2008 till it's actual payment dated 01.03.2018 within the period of three months from the date of this order.
- (ii) The respondents further do pay the interest at the rate of 9 % p.a. on the delayed payment of difference of pension of Rs.2,35,106/- for the period beyond six months from the date of retirement of the applicant dated 30.09.2008 till it's actual payment on 06.03.2018 within the period of three months from the date of this order..
- (iii) No order as to costs.

**(V.D. DONGRE)**  
**MEMBER (J)**

**Place:- Aurangabad**

**Date :- 20.12.2021**

SAS. O.A.No.138/2019. Interest on delayed payment