

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 155/2019**

Sharad Hiranman Arewar,  
Aged about 66 years,  
Retired Block Education Officer (Class II),  
Resident of Ambedkar Ward Pandharkawda,  
District :Yavatmal.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of School Education & Sports,  
Mantralaya, Mumbai-400 032.
- 2) The Commissioner of Education,  
Maharashtra,  
Pune.
- 3) The Deputy Director of Education,  
Amravati.
- 4) The Chief Executive Officer,  
ZillaParishad,  
Yavatmal.
- 5) The Education Officer (Primary),  
ZillaParishad,  
Yavatmal

**Respondents**

---

Shri S.Pande, Ld. counsel for the applicant.  
Shri H.K.Pande, Ld. P.O. for the respondents nos. 1 to 3.

---

---

**Coram:-Hon'ble Shri M.A. Lovekar, Member (J).**

**Dated: - 17<sup>th</sup> March 2022.**

---

**JUDGMENT**

**Judgment is reserved on 11<sup>th</sup> March, 2022.**

**Judgment is pronounced on 17<sup>th</sup> March, 2022.**

Heard Shri S.Pande, learned counsel for the applicant and Shri H.K.Pande, the Ld. P.O. for Respondents No.1 to 3.

2. Case of the applicant is as follows:-

When the applicant was working as Block Education Officer, Panchayat Samitti, Pandharkawda, District Yavatmal on complaint of demand of bribe trap was laid by A.C.B. and he was arrested on 19.5.2010. Offence was registered under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act. He was placed under suspension by order dated 21.6.2010 (Annexure A-1). During the period of suspension, and pendency of Criminal Case, the applicant retired on superannuation on 31.8.2012. By order dated 31.12.2016 (Annexure A-2) he was acquitted. By order dated 28.5.2018 (Annexure A-3) period of his suspension was treated as duty period for all purposes since A.C.B. had communicated that appeal was not to be filed against the order his acquittal. He made representations dated 27.3.2017, 2.11.2017, 19.12.2017 and

22.2.2018 (Annexure A-4 collectively) for releasing his retiral benefits. The payments were made but belatedly as shown in the table below.

1	Death cum Retirement Gratuity	12.10.18	4,23,225/-
2	Commutation amount	22.11.18	4,83,985
3	Difference of salary during suspension	2.11.18	4,24,095
4	Difference of pension and provisional pension	6.12.18	1,33,230
5	Leave encashment	7.1.19	2,01,472

3. On the basis of the case set up as above the applicant has prayed – A) *Hold and declare that the applicant is entitled for interest on the delayed payment of retirement benefits (Gratuity, Commutation, Leave Encashment, Difference of Salary during period of suspension and arrears of pension), from the date of his superannuation i.e.31.12.2012 till the date of actual payment @ 12% p.a. and or at the rate which this Hon. Tribunal may deem fit in the interest of justice;*

B) *The interest may be directed to be paid within a time stipulated as would be fixed by this Hon. Tribunal;*

C) *Grant any other relief as may be deemed fit in the interest of justice.*

4. Affidavit in reply of respondent No.3 is at pages 52 to 55.

Attached to this reply is opinion of A.C.B. (Annexure A-2) that as

per opinion of special P.P. appeal was not filed against the order of acquittal of the applicant. Rest of the documents attached to this reply are also placed on record by the applicant to which I have already referred.

5. Affidavit in reply of respondents 4 and 5 is at pages 69 to 73. It is their contention that for delay caused in making payment of retiral benefits the applicant himself was responsible since he approached the office belatedly.

6. Since the period of suspension of the applicant was directed to be treated as duty period for all purposes, the material dates would be the date of retirement on superannuation i.e.31.8.2012, and the date on which order of acquittal was passed i.e. 31.12.2016. There is absolutely nothing on record to attribute any part of delay to the applicant.

7. Now the question is from which date interest will be payable and at what rate. This question can be answered by relying on the following ratio laid down in “Prabhakar Verses State of Maharashtra (judgment of the Bombay High Court till by D.B.on 23.7.2008)-

*“In other words, interest becomes payable, only if gratuity has been authorised. Considering the language of Rule 130(1) (c), gratuity cannot be authorized till the departmental proceedings had*

*concluded and a final order was passed thereon. In our opinion, therefore, a conjoint reading of Rule 130(1) (c), and Rule 129-A(1) makes it clear that interest for delayed payment of gratuity is payable only in the event of the conclusion of the departmental proceedings and payment of gratuity is authorised and after such authorisation it is not paid within three months.”*

This ratio will apply with equal force to a case like the present one where criminal proceedings were filed against the applicant and terminated in his acquittal.

8. Thus, in the instant case interest will be payable from 1.4.2017 i.e. on expiry of period of 3 months from the date of acquittal of the applicant i.e.31.12.2016. The rate of interest would be what is paid on G.P.F. Hence, this order.

### **ORDER**

- (i) The O.A. is allowed in the following terms-
- (ii) The respondents shall pay interest for delayed payment to the applicant with effect from 1.4.2017 till the date of actual payment at the rate payable on G.P.F. at the relevant points of time.
- (iii) The payment of interest shall be made within two months from the date of this order.
- (iv) No order as to costs.

(M.A.Lovekar)  
Member (J)

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

Name of Steno : Raksha Shashikant Mankawde.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 17/03/2022.

and pronounced on

Uploaded on : 21/03/2022.