

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 460 OF 2016

DISTRICT: JALNA

Shri Munjahari S/o Jaywantrao Khating,
Age: 64 years, Occu. : Retired,
R/o Plot No. 95, Peshve Nagar, Satara
Parisar, Aurangabad-431005.

.. **APPLICANT**

V E R S U S

- 1) The State of Maharashtra,
Through the Secretary, School
Education and Sports Department,
Mantralaya, Mumbai -32.
- 2) The Commissioner,
School Education Department,
Pune, Dist. Pune.
- 3) The Director,
(Secondary and Higher Secondary)
Education, Dr. Ani Bezant Road,
Pune, Dist. Pune.
- 4) The Deputy Director of
Education (Primary), Aurangabad
Division, Aurangabad,
Dist. Aurangabad.
- 5) The Chief Executive Officer,
Zilla Parishad, Jalna, Dist. Jalna.
- 6) The Education Officer (Primary),
Zilla Parishad, Jalna, Dist. Jalna.

.. **RESPONDENTS**

APPEARANCE : Shri Swapnil Tawshikar, learned Advocate
for the Applicant.

: Smt. Resha S. Deshmukh, learned Presenting
Officer for the Respondent nos. 1 to 4.

: Shri M.V. Vibhute, learned Advocate for
respondent nos. 5 and 6.

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

ORDER

(Delivered on this 8th day of March, 2017.)

1. The applicant has claimed interest on the delayed payment of Pension, Gratuity, leave encashment etc. received by him by filing the present Original Application. The applicant was serving as a Block Education Officer (B.E.O.), Bhokardan. He retired on 31.08.2010 on his superannuation. He has not received the pensionary benefits except G.P.F within a reasonable time, after his retirement. Time and again he requested the respondents to start pension and pay Gratuity and other pensionary benefits to him at the earliest. But they have not given heed to his request and they had intentionally made delay in payment of pensionary benefits to him. He has made several complaints to higher authority as well as Lok Ayukta. The higher authority directed the respondent nos. 5 and 6 to make payment of pension and other pensionary benefits to the applicant. The respondents lastly paid the pensionary benefits to him after making considerable delay. Therefore, he suffered mental agony and therefore, he has claimed interest @ of 18% per annum on

the delayed payment of pensionary benefits received by him by filing present Original Application.

2. The respondents have filed affidavit in reply resisting the claim of the applicant. It is their contention that the applicant received amount of Rs. 8,73,855/- from Serva Shiksha Abhiyan, Jilha Parishad, Jalna for the purposes of Teachers' Training but he had not adjusted the said amount prior to his retirement. Therefore, enquiry in that regard was conducted and therefore, no pension and pensionary benefits were given to him, as the applicant had not adjusted the said amount even after his retirement. It is their contention that as disciplinary action was proposed against him and hence, pensionary benefits were not given to the applicant. But later on the Assistant Director of Education (Administration, Assumption and Planning) and Directorate of Secondary and Higher Secondary Education, Maharashtra State, Pune on 5.4.2014 decided that no disciplinary action can be taken and No Departmental Enquiry can be conducted against the applicant. Therefore, No Dues Certificate has been issued and pensionary benefits have been given to the applicant. It is their contention that there was no intentional delay on their part in releasing pension and pensionary benefits

to the applicant and therefore, they are not liable to pay the interest as claimed by the applicant.

3. Heard Shri Swapnil Tawshikar, learned Advocate for the applicant, Smt. Resha S. Deshmukh, learned Presenting Officer for the respondent nos. 1 to 4 and Shri M.V. Vibhute, learned Advocate for respondent nos. 5 & 6. I have also perused the affidavit, affidavit in reply, rejoinder affidavit and various documents placed on record by the respective parties.

4. The learned Advocate for the applicant submitted that the applicant retired on superannuation on 31.08.2010. No Departmental Enquiry was pending against him at that time. Not only this but no disciplinary action was proposed against him at that time. After retirement, the applicant made several applications with the respondent nos. 5 & 6 as well as other higher authorities to sanction pension and release pensionary benefits to him. But the respondent nos. 5 & 6 have not forwarded the pension papers to the Accountant General and not released the pensionary benefits. He has submitted that the Leave encashment amount, Gratuity, Training Reimbursement, free books reimbursement and commuted pension had been withheld by the respondents for the period of more than 3 to 4

years. He made several complaints/applications with the higher authorities and higher authority directed the respondent nos. 5 & 6 from time to time to make payment of pension and pensionary benefits to the applicant but the respondent nos. 5 & 6 due to personal grudge against the applicant withheld the amounts on the one and another grounds.

5. The learned Advocate for the applicant argued that the applicant had made complaint to the Lok Ayukta and the Lok Ayukta has also directed the respondents to release the pension and also held that the administration of respondent nos. 5 & 6 was 'Kuprashasan कुप्रशासन'(bad administration). He has attracted my attention towards the various applications filed by the applicant at paper book page nos. 25 & 26 (both inclusive). He has submitted that in view of the provision of Section 129 (A) and 129 (B) the applicant is entitled to get interest on the delayed payment of pension, gratuity and other pensionary benefits.

6. The learned Presenting Officer for the respondent nos. 1 to 4 has submitted that the applicant had received amount of Rs. 873855/-from Serva Shiksha Abhiyan, Jilha Parishad Jalna for the purposes of Teachers' Training before his retirement, but he has not adjusted the said amount of advance prior to his

retirement and therefore, he was called upon to give details thereof, but he had not complied with the direction in that regard and therefore, departmental enquiry was proposed against him and therefore, they had withheld the pension and pensionary benefits of the applicant. They have submitted that lastly the Assistant Director of Education (Administration, Assumption and Planning) and Directorate of Secondary and Higher Secondary Education, Maharashtra State, Pune communicated them that no disciplinary action and no departmental enquiry can be conducted against the applicant as per the provisions of the Maharashtra Civil Services (Pension) Rules, 1982 and therefore, no dues certificate was issued on 5.4.2014 by the Chief Executive Officer, Jilha Parishad, Jalna and thereafter, the pensionary benefits have been released to the applicant. They have submitted that because of the said proposal of Departmental Enquiry, the amount has not been paid to the applicant and there was not delay on their part. The applicant himself was responsible for receiving pension and gratuity belatedly because of his own wrong and therefore, he is not liable to get the interest.

7. On perusal of the documents produced by the applicant it reveals that the applicant retired on 31.08.2010 since then he was pursuing matter of releasing pension and giving

pensionary benefits to him by filing several applications with the respondent nos. 5 & 6 and higher authority. Not only this but, he has approached to the Lok Ayukta, Maharashtra State, Mumbai and placed his grievance before him. The Lok Ayukta after considering the documents produced by the applicant held that there was delay on the part of Zilla Parishad, Jalna in sanctioning pension of the applicant and it amounts 'कुप्रशासन' (bad administration) and therefore, by its recommendation letter dated 16.06.2014, Lok Ayukta directed the Secretary, School Education and Sports Department, Mantralaya Mumbai to grant pension to the applicant within two months and thereafter, pension has been granted to the applicant. The applicant has placed on record chart of delayed payment of pension and pensionary benefits like leave encashment, Gratuity, Training Reimbursement, free books reimbursement and commuted pension paid to the applicant. From the said chart, it reveals that he has received leave encashment, gratuity and commuted pension after laps of more than 3 to 4 years respectively.

8. Provisions of Rule 129-A of the Maharashtra Civil Services (Pension) Rules, 1982 provides that an interest at the rate applicable to General Provident Fund deposits shall be paid on the amount of delayed payment of gratuity if it has been

delayed beyond the period of three months, in respect of period beyond three months. Rule 129-B provides that an interest on delayed payment of pension at the rate applicable to the General Provident Fund deposits shall be paid on the amount of pension, if it has been authorized after six months from the date when its payment became due, in respect of the period beyond six months when its payment became due.

9. The learned Advocate for the applicant has submitted that in view of the decision of the Hon'ble Apex Court in the case of **Vijay L. Mehrotra Vs. State of U.P. and others reported in (2001) 9 Supreme Court Cases 687: 2002 Supreme Court Cases (L & S) 278 (AIR 2000 SC 3513 (2) : 2000 LAB IC 2663 : (2000) 2 LLJ 253 : (2000) 3 LLN 1 : (2000) 2 SLR 686** , the applicant is entitled to get interest @ of 18 % per annum on the delayed payment of pensionary benefits given to him.

10. Considering the above said facts, it is crystal clear that there was intentional delay on the part of respondent nos. 5 & 6 in granting pension and releasing pensionary benefits to the applicant. Therefore, in view of the provisions of Rule 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982, the applicant is entitled to get interest on the delayed payment of gratuity and pension at the rate as prescribed on General

Provident Fund deposits after expiry of reasonable period of 3 & 6 months respectively as mentioned in these Rules. Principles laid down in the above said cited decision are appropriately applicable to the present set of facts, as the delay in payment of gratuity and pension to the applicant was caused due to administrative and intentional lapses on the part of the Respondent nos. 5 & 6. Therefore, the applicant is entitled to get simple interest on the amount of Gratuity, commuted pension, leave encashment at the rate of 9% per annum as per Section 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982. Therefore, the Original Application deserves to be allowed. Hence, I proceed to pass following order:-

ORDER

1. The Original Application is partly allowed.
2. The Respondents do pay simple interest @ of 9% p.a. on the amount of Gratuity and Commuted pension in respect of the period beyond 3 and 6 months respectively in view of Rule 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982.

There shall be no order as to costs.

(B.P. PATIL)
MEMBER (J)