

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.255/2015**

**DISTRICT:- BEED**

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Shri Rajaram s/o. Abaji Sande,  
Age : 68 years, Occu. : Retired,  
R/o. Vardhman Nagar, E wing,  
Rajarampuri, Kolhapur.

...APPLICANT

**V E R S U S**

- 1) The State of Maharashtra,  
(Copy to be served on CPO Maharashtra  
Administrative Tribunal Bench at Aurangabad)
- 2) The Principal Secretary,  
Agriculture, Animal Husbandry,  
Fishery Department,  
Maharashtra State,  
Mantralaya, Mumbai-32.
- 3) Divisional Joint Director of Agriculture,  
Aurangabad Division, Aurangabad.
- 4) District Superintending Agriculture  
Officer, Beed
- 5) The Accountant General, Nagpur.
- 6) District Treasury Officer, Kolhapur. ...RESPONDENTS

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APPEARANCE :Shri S.P.Telgote learned Advocate holding  
for Shri A.R.Devkate learned Advocate for  
the applicant.

Shri N.U.Yadav learned Presenting  
Officer for respondents.

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CORAM : B. P. Patil, Vice Chairman

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Reserved on : 12-04-2019.  
Pronounced on : 11-06-2019.  
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**O R D E R**

1. By filing the present O.A., the applicant has sought direction from the Tribunal to direct the respondents to pay an amount of Rs.11,93,338/- (Rs. Eleven lakh ninety three thousand three hundred and thirty eight only) along with future interest @ 15% per annum towards delayed payment of pensionary benefits, suspension benefits and gratuity amount granted to him.

2. The applicant has joined service in Agriculture Department of State of Maharashtra on 11-07-1972. He retired on 31-05-2006 as a District Superintending Agriculture Officer, Beed on attaining age of superannuation. It is the contention of the applicant that respondents have illegally withheld his pre and post-retirement benefits after his retirement. He requested the respondents to disburse the said amount on many occasions but the respondents had not given any heed to

his request, therefore, he had filed O.A.No.114/2012 before this Tribunal. This Tribunal has disposed of the O.A. on 24-01-2013 and directed the respondents to send the applicant's pension case to Accountant General, Nagpur within fifteen days. As per the direction given by this Tribunal the respondent no.4 sent the pension case of the applicant to A.G. Nagpur. A.G. Nagpur has sanctioned the applicant's pension case by letters dated 02-08-2013 and 27-11-2013. Thereafter, the applicant received the amount of pay and pension along with other post retirement benefits.

3. It is contention of the applicant that when he was serving as Sub Divisional Agriculture Officer, Chiplun, Dist. Ratnagiri, the Divisional Joint Director, Konkan Division, Thane sent a proposal for initiating departmental enquiry against him. Respondent no.2 decided to initiate departmental enquiry against him and issued suspension order, suspending the applicant from service dated 01-02-2001. The applicant had challenged the said order before the Maharashtra Administrative Tribunal by filing the O.A.No.125/2001. The Tribunal allowed the O.A. and quashed and set aside the impugned order dated

01-02-2001 by order dated 14-03-2001. Thereafter, he was reinstated in service. Accordingly, he joined as Sub Divisional Agriculture Officer, Chiplun, Dist. Ratnagiri on 23-03-2001. The Departmental Enquiry started against him on 02-11-2000 and it was completed on 01-02-2011. Period of 10 years and 3 months consumed for deciding the departmental enquiry. It is further contention of the applicant that when he was serving as Sub Divisional Agriculture Officer, Chiplun, Dist. Ratnagiri, the Commissioner Agriculture sent proposal for initiation of departmental enquiry against him by letter dated 02-04-2002. Respondent no.2 decided to initiate departmental enquiry against him and served the chargesheet on the applicant on 19-01-2006. The Departmental Enquiry was completed and punishment has been imposed on him by order dated 23-01-2012. It took more than 10 years for completing the Departmental Enquiry. It is contention of the applicant that he was under suspension from 01-02-2001 to 22-03-2001 for 50 days. He requested the respondents to regularize his suspension period but the respondent no.2 had not decided the suspension period of the applicant. At last suspension period was decided on 23-07-2012.

4. It is further contention of the applicant that he was promoted as District Agriculture Officer and joined as S.A.O. at Beed on 08-10-2003 on the establishment of respondent no.3. Respondent no.3 had not fixed the pay of the applicant in the promotional pay scale and withheld the promotional pay scale. The Government had decided to implement recommendation of 6<sup>th</sup> Pay Commission and it was made applicable with effect from 01-01-2006. He was retired on 31-05-2006. His pay has been wrongly fixed by an order dated 29-12-2009. It is his contention that the respondents had deliberately and with mala fide intention made delay in fixing his pay in the promotional pay scale and in regularizing the suspension period and for completing the departmental enquiry. Therefore, he received pensionary benefits, arrears of 6<sup>th</sup> Pay Commission, DCRG amount after a long period. Therefore, he is entitled to get interest on the said amount. The applicant has claimed interest of Rs.11,93,338/- by filing the present O.A.

5. Respondent nos.2 to 4 have filed their affidavit in reply and resisted the contentions of the applicant. They have not disputed the fact of date of appointment of the

applicant, his promotion and the date of retirement. They have not disputed the fact that the applicant was under suspension with effect from 01-02-2001 to 23-03-2001 for 51 days and the applicant had challenged the said suspension order by filing O.A. before the Tribunal. They have admitted the fact that the Departmental Enquiries were initiated against the applicant when he was serving as Sub Divisional Agriculture Officer. They have admitted the fact that the first Departmental Enquiry was initiated against the applicant in the year 2001 and it was concluded on 06-02-2007 and enquiry report was submitted to the Government on 01-02-2011. Second Departmental Enquiry was initiated in the year 2006 and it was concluded on 23-01-2012. It is their contention that the applicant was held guilty for irregularities and he was punished in the Departmental Enquiries by orders dated 01-02-2011 and 23-01-2012. It is their contention that they never withheld pensionary benefits of the applicant illegally and they have taken necessary and effective steps to release pensionary benefits to the applicant.

6. They have denied that they had not concluded departmental enquiry within stipulated time. It is their

contention that number of Departmental Enquiries were pending and post of Enquiry Officer was vacant and consequently it resulted in lapse of the posts of Enquiry Officers. In view of the G.R. dated 26-05-2006 pending Enquiries against Group-A and Group-B had been conducted by the retired officers on contract basis. Accordingly Enquiry Officers were appointed in the Departmental Enquiry initiated against the applicant and those officers conducted the enquiries against him. It is their contention that the suspension period of the applicant could not be regularized till completion of Departmental Enquiries initiated against the applicant. After conclusion of Departmental Enquiry suspension period of the applicant was regularized by order dated 23-07-2012 and there was no delay on their part and therefore the applicant is not entitled to get interest on the said amount. It is their contention that during the pendency of the Departmental Enquiries terminal and provisional benefits as per rules were paid to the applicant. After fixation of the pay as per the recommendations of the 6<sup>th</sup> Pay Commission necessary entries have been taken in the service book of the applicant and after verification of the same by Accounts Officer, Pay Verification Unit, Aurangabad proposal for regular pension

has been submitted to A.G. Nagpur on 31-01-2013 and it was sanctioned by A.G. Nagpur on 31-10-2013. It is their contention that the applicant was getting regular pension from December, 2014 and all pensionary benefits have already been paid to the applicant. It is their contention that 90% amount of G.P.F. in the tune of Rs.2,27,000/- was already paid to the applicant. Amount of leave encashment of Rs.66,155/- was also paid to him. Amount of G.I.S. of Rs.89,572/- was paid to the applicant on 08-12-2006. Final amount of G.P.F. was paid to the applicant in the tune of Rs.2,09,406/- on 25-04-2007. It is their contention that there was no delay on their part for making payment of the said amount. Therefore, the applicant is not entitled to get interest on the same. It is their contention that the applicant was receiving provisional pension from June 2006 to November, 2013 regularly, and therefore, he is not entitled to get interest on the pensionary benefits. It is their further contention that since the enquiries were pending against the applicant, his gratuity amount was withheld and there is no illegality in the same. Therefore, they have prayed to reject the O.A.

7. Respondent no.5 has also filed his affidavit in reply and resisted the contentions of the applicant. It is contended by the respondent no.5 that the Comptroller & Auditor General of India discharges his duties through field officers, i.e. Accountant General Offices in accordance with the provisions of Article 149 of the Constitution of India read with the Comptroller and Auditor General (Duties, Powers and Conditions of Service), Act, 1971. Its role is only in respect of pension cases and limited to scrutiny of proposals received from Heads of Offices of the Government of Maharashtra / Pension Sanctioning Authorities in respect of persons who retired from various State Government Offices situated in Vidarbha and Marathwada Regions with reference to Maharashtra Civil Services (Pension) Rules, 1982 and other G.Rs. issued by the State Government from time to time. It authorizes pensionary benefits if found admissible as per rules. It is further submitted by the respondent that it does not act on its own volition but authorizes pensionary benefits only on receipt of proper pension papers duly attested by the Head of Office / Pension Sanctioning Authority of the State Government. This respondent is not in a position to authorize benefits if either the proposal is not received from the Head of the

Office / Pension Sanctioning Authority in the prescribed format with requisite documents or if it is found not conforming to any of the provisions of Maharashtra Civil Services (Pension) Rules, 1982 and other G.Rs. issued from time to time.

8. It is further contended by him that as per the direction given by the Tribunal in O.A.No.121/2001 decided on 24-01-2013 pension proposal was submitted on 31-01-2013. Scrutiny of the proposal revealed that the pension case was not in complete shape and certain lacunae were there. Therefore admissibility report was issued on 19-04-2013 and informed that on receipt of compliance on above points, further action will be taken. On receipt of compliance from the respondent's office, respondent's office had issued Special Seal Authority to office of the A.G. on 22-11-2013 for further necessary action and the action has been complied with accordingly. It is further contended by him that there was no delay on his part while sanctioning pension of the applicant. Therefore, he has prayed to reject the O.A.

9. I have heard Shri S.P.Telgote learned Advocate holding for Shri A.R.Devkate learned Advocate for the

applicant and Shri N.U.Yadav learned Presenting Officer for respondents. Perused the documents placed on record by both sides.

10. Admittedly, the applicant joined service in Agriculture Department of the Government of Maharashtra on 11-07-1972. On attaining age of superannuation, he retired on 31-05-2006 as a District Superintending Agriculture Officer, Beed. Admittedly, the applicant was suspended by order dated 01-02-2001 when he was serving as Sub Divisional Agriculture Officer, Chiplun, Dist. Ratnagiri. The applicant challenged the suspension order before the Tribunal by filing O.A.No.125/2001. O.A. came to be allowed on 14-03-2001 and the Tribunal quashed and set aside the impugned order of suspension dated 01-02-2001. Thereafter, the applicant was reinstated in the service on 23-03-2001. Admittedly, Departmental Enquiry was initiated against the applicant in that regard and it was finally concluded on 01-02-2011. Admittedly, one more Departmental Enquiry was initiated against the applicant when he was serving as Sub Divisional Agriculture Officer, Chiplun, Dist. Ratnagiri by order dated 02-04-2002 and it was concluded finally on 19-01-2006.

Admittedly, the applicant got retired on 31-05-2006. Admittedly, after conclusion of the Departmental Enquiries, pensionary benefits were extended to the applicant. Admittedly, the applicant filed O.A.No.114/2012 and it was allowed on 24-01-2013 with a direction to the respondents to submit pension case of the applicant to A.G.Nagpur. Accordingly pension papers were sent to the A.G.Nagpur and A.G.Nagpur accordingly sanctioned pensionary benefits to the applicant. Admittedly, the applicant received pensionary benefits thereafter.

11. Learned Advocate for the applicant has submitted that 2 Departmental Enquiries were pending against the applicant. One Departmental Enquiry concluded after 10 years and 3 months and another was concluded within 9 years and 9 months. He has submitted that because of the lapses on the part of the respondents, the Departmental Enquiries were delayed and consequently, the applicant could not able to get pensionary benefits in time. He has submitted that the respondents had not passed the order regarding regularization of the suspension period immediately. Therefore, he could not able to get pensionary benefits in time. He has submitted that arrears of 6<sup>th</sup> Pay

Commission had not been paid to the applicant in time and that is one of the grounds for causing delay in granting pensionary benefits to the applicant. Therefore, the applicant is entitled to get interest on the above said amount in view of the provisions of Maharashtra Civil Services (Pension) Rules, 1982. Therefore, he has prayed to allow the O.A. and to direct the respondents to pay interest.

12. Learned P.O. has submitted that 2 departmental enquiries were initiated against the applicant in the year 2002 and 2003, respectively. Those enquiries have been concluded finally in the year 2011 and 2012. He has submitted that the applicant retired meanwhile in the year 2006. As the enquiries were pending against the applicant, the pension papers of the applicant had not been processed. However, the applicant was granted provisional pension since the date of his retirement till sanction of regular pension. He has submitted that the suspension period of the applicant could not be regularized till completion of the Departmental Enquiries and the suspension period has been regularized on completion of the Departmental Enquiries, and there was no delay on the part of the respondents. He has submitted that same is the

thing regarding granting promotional benefits to the applicant as well as the arrears of the 6<sup>th</sup> Pay Commission, and there was no delay on the part of the respondents in releasing the said amounts to the applicant. He has further submitted that after completion of Departmental Enquiries in the year 2011 and 2012 as per the direction given by this Tribunal in O.A.No.114/2012 pension papers had been submitted to the A.G.Nagpur and thereafter pensionary benefits had been extended to the applicant.

13. Learned P.O. has further argued that in view of the provisions of Rule 129A the Government employees are entitled to claim interest in case there was delay in payment of gratuity amount. While Rule 129-B provides to grant interest on the delayed payment on pension. He has submitted that in view of the Rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982, the Government is empowered to withhold pension or part of it till the completion of departmental enquiry or judicial proceeding pending against the Government servant/pensioner. He has submitted that Rule 130 of the Maharashtra Civil Services Pension Rules, 1982 provides that amount of gratuity shall not be paid to the Government servant until

the conclusion of the Departmental Enquiry or judicial proceeding and on conclusion of Departmental Enquiry or judicial proceeding it can issue final order in that regard. He has submitted that in view of the said provisions, regular pension as well as gratuity has not been sanctioned to the applicant till the conclusion of the Departmental Enquiry, and there was no illegality on their part in that regard. Regular pension as well as gratuity has been sanctioned immediately after conclusion of the departmental enquiry as per the direction given by the Tribunal in O.A.No.114/2012. Therefore, the applicant is not entitled to claim interest.

14. I have gone through the documents placed on record by both the parties. On perusal of the record it reveals that 2 Departmental Enquiries were pending against the applicant. Those enquiries were completed on 01-02-2011 and 23-01-2012. After completion of the Departmental Enquiries the delinquent applicant was held guilty and therefore punishment was imposed on him. During the pendency of the enquiries, applicant retired on 31-05-2006. Documents on record show that provisional pension was granted to the applicant from June, 2006 till November,

2013. In view of provisions of Rule 130 and 27(4) read with Rule 129A-(4), the Government employee against whom any departmental enquiry or judicial proceeding is instituted or pending, he is entitled to get provisional pension. As per the provision of Rule 130 (1) (c), no gratuity shall be paid to the Government servant until the conclusion of departmental enquiry or judicial proceeding.

15. In view of the said Rules, there is no illegality in withholding the gratuity amount of the applicant. Moreover, as per the said Rules, provisional pension has been sanctioned and paid to the applicant from June, 2006 till completion of Departmental Enquiry. After completion of Departmental Enquiry as per direction of this Tribunal in O.A.No.114/2012 pension papers had been processed by the respondents without delay. Thereafter, the pensionary benefits have been released to the applicant. Not only this but regular pension has been sanctioned within a reasonable period and there was no delay on the part of the respondents. Therefore, in my view, there was no lapse on the part of the respondents in granting pensionary benefits to the applicant. In view of second proviso to Rule 129B(1) of Maharashtra Civil Services (Pension) Rules, 1982, the

Government servant is not entitled to interest for the period for which provisional pension is granted. On that ground also the applicant is not entitled to get interest on the pension amount.

16. So far as the other amounts i.e. DCRG and difference of leave encashment, difference of arrears of 6<sup>th</sup> Pay Commission recommendations and yearly increments are concerned, those amounts had been paid to the applicant on conclusion of the Departmental Enquiries. Therefore, no question of granting interest on the said amounts arises. Moreover, there is no provision in the Pension Rules, 1982 to grant interest on such amounts. Therefore, the applicant is not entitled to get interest on the said amount.

17. In view of the abovesaid facts and circumstances of the case, the applicant was getting provisional pension since June, 2006 onwards till the conclusion of the Departmental Enquiries and till finalization of regular pension, and therefore, he is not entitled to get interest on the pension amount. The amount of gratuity was withheld during the pendency of the departmental enquiries and it has been released immediately after the conclusion of the Departmental Enquiries. Therefore, the applicant is not

entitled to get interest on the said amount in view of the provisions of Rule 129B of the Maharashtra Civil Services (Pension) Rules, 1982. Applicant is not entitled to get interest on other amounts as claimed by him. There was no delay on the part of the respondents in sanctioning and disbursing the said amount. Therefore, the applicant is not entitled to get interest as claimed. There is no merit in the O.A. Consequently, O.A. deserves to be dismissed.

18. In view of the discussion in the foregoing paragraphs, O.A. stands dismissed with no order as to costs.

**(B. P. PATIL)**  
**VICE CHAIRMAN**

**Place : Aurangabad**  
**Date : 11-06-2019.**