

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 642 OF 2023**

**(Subject:- Pension & Pensionary Benefits)**

**DISTRICT:-HINGOLI**

**Rambhau S/o Tanhaji Dipake,** )  
Age: 70 Years, Occu.: Retired Talathi )  
R/o Jyoti Nagar, Gayatri Mandir, Hingoli, )  
Tq. and Dist. Hingoli. ) **APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra** )  
Through its Secretary, )  
Revenue and Forest Department, )  
M.S. Mumbai. )
- 2. The Accountant General (A & E),** )  
Civil Line Ravi Bhavan, )  
Maharashtra State-I, )  
Nagpur. )
- 3. The District Collector, Hingoli,** )  
Tq. and Dist. Hingoli, )
- 4. The Sub-Divisional Officer,** )  
Basmat, Tq. Basmat, ) **RESPONDENTS**

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**APPEARANCE** : Shri H.V. Patil, learned counsel for  
the applicant.  
: Shri D.M. Hange, learned Presenting  
Officer for the respondent authorities.

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**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**DATE** : **02.05.2024.**  
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**ORAL - ORDER**

Heard Shri H.V. Patil, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities finally with consent at admission stage.

2. By filing this Original Application the applicant is seeking declaration that he is entitled for grant of pension and pensionary benefits and further seeking direction to respondent Nos. 2 to 4 to sanction pension as well as release all the pensionary benefits to the applicant as per rules. The applicant is also seeking direction to regularize his suspension period and to pay him full salary for the suspension period.

3. The applicant is working as Talathi and also retired as Talathi on attaining the age of superannuation on 31.12.2009. The applicant while working as Talathi at Hingoli, the crime No. 3030 of 2008 came to be registered at Police Station, Hingoli for the offences punishable under Section 7, 13 (1) (d) and 13 (2) of the Prevention of Corruption Act. In

view of said registration of crime, the applicant came to be suspended by Sub Divisional Officer, Basmat vide order dated 23.10.2008. After registration of crime and during pendency of trial, the applicant came to be retired on attaining the age of superannuation on 31.12.2009.

4. Learned counsel for the applicant submits that by judgment and order dated 15.06.2020, the learned Special Judge, Hingoli pleased to acquit the applicant from all the charges leveled against him in Special Case No. 01 of 2009. The copy of the said judgment and order dated 15.06.2020 is marked as Annexure 'B'.

5. Learned counsel for the applicant submits that after retirement, the applicant has time to time requested to the respondent Nos. 3 and 4 to release his pension and pensionary benefits, however, no action has been taken. Though the respondent No.3 by order dated 03.07.2014 granted provisional pension, however, even after the judgment of acquittal passed by the learned Special Judge, Hingoli, no pensionary benefits have been granted to the applicant.

6. Learned counsel for the applicant submits that pensionary benefit were not granted to the applicant for the sole reason that the trial was pending, but even after acquittal of the applicant from the criminal case by Trial Court, no pensionary benefits have been granted to the applicant.

7. Learned counsel for the applicant fairly submitted that at present the appeal against the acquittal of the applicant is pending before the Hon'ble High Court of Bombay, Bench at Aurangabad. Being aggrieved by the judgment and order of the acquittal passed by the Special Judge, Hingoli dated 15.06.2020, the State has preferred the appeal before the Hon'ble High Court of Bombay, Bench at Aurangabad along with Application for Leave to Appeal by State No. 100/2020 which is still pending.

8. Learned counsel for the applicant submits that by order dated 01.10.2021, the Hon'ble High Court of Bombay, Bench at Aurangabad only issued notices to the respondents and thereafter the said application seeking leave to appeal is still pending. Learned counsel for the applicant submits that the applicant is 70 years of age at present and he has not

received pensionary benefits till date. Learned counsel for the applicant submits that the case of the applicant is covered by the view taken by the Division Bench of Hon'ble High Court of Bombay, Bench at Aurangabad by order dated 25.10.2021 in Writ Petition No. 6650 of 2020. Learned counsel for the applicant submits that the applicant is ready to submit an undertaking.

9. Learned Presenting Officer submits that as an application seeking leave to file appeal No. 100 of 2020 is pending before the Hon'ble High Court of Bombay, Bench at Aurangabad, the final pension case of the applicant is not submitted to the Accountant General who is sanctioning authority in granting the final pension. Learned Presenting Officer submits that the Original Application is liable to be dismissed.

10. In a case **Ashfakali Khan Abdulali Khan Vs. The State of Maharashtra and Ors.** in **Writ Petition No. 6650/2020** decided on 25.10.2021, the Division Bench of Hon'ble High Court of Bombay, Bench at Aurangabad in a case of similarly situated employees has partly allowed the Writ Petition directing the petitioner therein to tender an

affidavit/undertaking to respondent concerned stating therein that if he suffers an adverse order in the pending proceedings for challenging and acquittal and his acquittal is converted into conviction, he shall return the entire gratuity amount within 8 weeks from such adverse judgment, subject to his right to challenge the said judgment. All consequences flowing from such conversion of acquittal into conviction would bind the petitioner to the extent of the monetary reliefs that he would be getting in view of order.

11. The applicant in the present case came to be retired way back in the year, 2009 and except provisional pension, he has not granted other pensionary benefits. The applicant is presently 70 years of age. At present the application for leave to file appeal as preferred by the State is pending. The applicant got meager amount of provisional pension and he is not getting the regular pension since 2009 and he has not received the amount of gratuity. Thus by directing the applicant to tender an affidavit/undertaking in terms of the observations and order passed by the Division Bench of Hon'ble High Court of Bombay, Bench at

Aurangabad, this Original Application can be disposed of.

Hence, the following order:-

**ORDER**

The Original Application is partly allowed in the following terms:-

- (A) The applicant shall tender an affidavit/undertaking to respondents stating therein that if he suffers an adverse order in the pending proceedings for challenging and acquittal and his acquittal is converted into conviction, he shall return the entire gratuity amount within 8 weeks from such adverse judgment, subject to his right to challenge the said judgment. All consequences flowing from such conversion of acquittal into conviction would bind the applicant to the extent of the monetary reliefs that he would be getting in view of this order.
- (B) After such affidavit is filed satisfying the above stated ingredients, the respondents shall initiate steps for remittance of admissible monetary

benefits within 12 (twelve) weeks from the date of filing of such affidavit by the applicant.

- (C) So far as the prayer about the regularization of the suspension period and the pay and allowances of the said period to be granted to the applicant is concerned, the respondents shall decide the representation submitted by the applicant dated 28.12.2020 (Annexure 'E') on its own merits in accordance with law after disposal of the application seeking leave to file appeal against the applicant as the case may.
- (D) In the circumstances, there shall be no order as to costs.
- (E) The Original Application is accordingly disposed of.

**MEMBER (J)**

**Place:-Aurangabad**

**Date : 02.04.2024**

SAS O.A. 642/2023(S.B.) Pension and Pensionary Benefits.