

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.263/2024 (S.B.)

Anil S/o Ramdas Sute,

Aged 62 years, Occupation: Retired,

R/o Plot No.09, Deepkamal Layout,

Shahu Nagar, Manewada-Besa Road, Nagpur.

... **APPLICANT**

// V E R S U S //

1] State of Maharashtra,

Through its Secretary,

Medical Education and Drugs Department,

9th Floor, G.T.Hospital, Campus Building,

New Mantralaya, Fort, Mumbai-400 001.

2] Commissioner of Medical Education and Research,

4th Floor, Dental College Building,

St. Georges Hospital Compound,

CST, Mumbai - 400 001.

3] Dean,

Government Medical College,

Miraj.

... **RESPONDENTS**

**Shri N.D. & T.N. Thombre, P.T. Nagdeve, Learned
Advocates for the Applicant.**

Shri S.A. Sainis, Learned P.O. for the Respondents.

**Coram :- Hon'ble Shri Justice M. G. Giratkar,
Vice Chairman.**

Dated :- 18/03/2025.

J U D G M E N T

Heard Shri N.D. Thombre, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. The case of the Applicant in short is as under :-

Applicant was working on the post of Dental Technician with Respondents. Applicant came to be retired from the said post from 30/06/2020, after completion of the age of superannuation. After retirement, service book of applicant was sent for verification to the Pay Verification Unit. Some objections were raised by the Pay Verification Unit in respect of excess salary paid to the applicant amounting to Rs.10,62,571/-. Applicant approached to this Tribunal by filing the O.A. No.659/2022. But during pendency of the O.A., the respondent No.1 by Government Resolution dated 21/03/2023 granted exemption from the impugned recovery. Applicant made representation to the Respondent No.3 for grant of interest on delayed payment of pension and pensionary benefits. But

respondent No.3 refused to pay the same by their letter dated 31/01/2024. Hence, applicant approached to this Tribunal for the following reliefs:-

“10.i) Quash and set aside the impugned Order dated 31/01/2024 at Annexure No.A-5 issued by the Respondent No.3 Dean, Government Medical College, Miraj being illegal and against the rules framed by the Respondents;

ii) Direct the Respondents to pay interest to the Applicant on the present rate of interest i.e. at the rate of 8% per annum on delayed payments of pension and pensionary benefits to the Applicant as per the rules and the various Judgements passed by this Hon'ble Tribunal and the Hon'ble Apex Court more specifically stated in Ground No F;

iii) Direct the Respondents to pay arrears of pension and pensionary benefits along with the interest as revised by Order dated 01/02/2024 at Annexure NoA-7;

iv) Saddle the cost of this Original Application upon the Respondents;

v) Any other relief, which this Hon'ble Tribunal deems fit and proper in the circumstances, be granted in the interest of justice.”

3. O.A. is strongly opposed by the Respondents. It is submitted in Para 6 of the reply as under:-

“It is submitted that, the applicant, being aggrieved by the said recovery approached to this Hon'ble Tribunal

by challenging the same being Original Application No. 659/2022. As the directions of this Hon'ble Tribunal with regards to above OA, to comply the order the respondent's granted exemption to the applicant vide Government Resolution dated 21.03.2023. It is pertinent to note that respondents work by following proper procedure, rules and regulations. Thus, to comply the Hon'ble Tribunal order the procedure to exempt the employee from excess recovery had taken time, as the proposal needs to be sent from respondent no. 1 to finance department. Hence, there is no delay on part of respondent from granting the payment of pension and pensionary benefits."

4. During the course of submission, learned counsel for applicant Shri N.D. Thombre has pointed out the order passed on 27/04/2023 in O.A. No.659/2022. Learned counsel for applicant has submitted that as per the order dated 01/07/2022, the respondent No.3 was directed to release the pension and pensionary benefits by withholding the amount of impugned recovery during the pendency of the O.A. Therefore, it was the duty of respondents to pay the pension and pensionary benefits withholding the recovery amount.

5. The Respondent-Government itself is very kind enough for the applicant. This is an exceptional order passed by the

Government of Maharashtra dated 21/03/2023. The material part of the order is reproduced below:-

“शासन निर्णय :

श्री. अनिल रामदास सुटे, दंततंत्रज्ञ (से.नि.) शासकीय वैद्यकीय महाविद्यालय, मिरज यांना चुकीची वेतनश्रेणी मंजूर केल्याने वेतनापोटी रु. १०,६२,५७१/- इतकी रक्कम अतिप्रदान झालेली आहे. श्री. सुटे हे दि. ३०.०६.२०२२ रोजी सेवानिवृत्त झाले आहेत. यास्तव श्री. सुटे यांना अतिप्रदान झालेल्या रु. १०,६२,५७१/- इतक्या रक्कमेची वसुली करण्यास या शासन निर्णयान्वये सुट देण्यात येत आहे.

२. वेतनपडताळणी पथकाने काढलेल्या आक्षेपानुसार श्री. सुटे यांच्या वेतनाची पुनश्च वेतननिश्चिती करून त्यानुसार अनुज्ञेय असलेल्या वेतनानुसार निवृत्तीवेतन व तदानुषंगीक सर्व लाभ श्री. सुटे यांना अदा करण्यात यावेत.

३. अतिप्रदान रक्कम वसुल करण्यास देण्यात येणारी सुट ही पूर्वोदाहरण म्हणून इतर कोणत्याही प्रकरणात लागू करता येणार नाही.

सदरचा शासन निर्णय वित्त विभाग, अनौपचारिक संदर्भ क्र. ५६/२३/सेवा-३, दि. ०२.०२.२०२३ अन्वये देण्यात आलेल्या मान्यतेनुसार निर्गमित करण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नांवाने

Sd/-

(सु.द.धोंडे)

अवर सचिव, महाराष्ट्र शासन,”

6. In many matters, the Respondent-Government has never taken decision similar to the one made on 21/03/2023 in respect of applicant that O.A. No. 659/2022 was disposed of on 27/04/2023.

7. As per the order dated 01/07/2022, the respondent No.3 was directed to release all the pension and pensionary benefits withholding the amount of recovery. Therefore, it was their duty to pay all the pension and pensionary benefits as per order dated 01/07/2022. In fact, respondent No.3 has paid the amount of pension and pensionary benefits in the month of August, 2023. Therefore, applicant has claimed interest as per the provisions of Rule 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982.

8. There is no dispute that respondents have not paid pension and pensionary benefits on the ground that respondents had to recover excess amount paid to the applicant. The Government itself has issued order dated 21/03/2023 (without any order from the Court) and exempted the applicant from the recovery of Rs.10,62,571/-. Moreover, this Tribunal as per the order dated 01/07/2022, directed Respondent No.3 to pay the

pension and pensionary benefits withholding the amount of recovery, but after the said order, the Respondent No.3 did not paid the amount of pension and pensionary benefits. Therefore, applicant is entitled to get interest as per the provisions of Section 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982. Hence, the following order:-

O R D E R

- (i) O.A. is partly allowed;
- (ii) The respondents are directed to pay the interest on the unpaid amount of the pension and pensionary benefits till the month of August, 2023 as per the provisions of Rule 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982. (excluding the interest on the amount of GPF)
- (iii) No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman.

Dated :-18/03/2025.
PRM.

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

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 18/03/2025.