

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5691 OF 2003
WITH
CIVIL APPLICATION NO. 852 OF 2008

Ramrao s/o Sajanaji Nagargoje
Age-62 years, Occu-Nil,
R/o- Prashant Nagar, Ambajogai,
Tq. Ambajogai, Dist. Beed.

VERSUS

1. The State of Maharashtra
(Through its Secretary,
Irrigation Department,
Maharashtra State,
Mantralaya, Mumbai – 32
2. The Superintending Engineer
Osmanabad Irrigation Circle,
Osmanabad / now Irrigation
Project Circle, Parali Vaijinath.
3. The Executive Engineer,
Minor Irrigation Division,
Ambajogai.

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Advocate for petitioner : Mr. Rajendrraa Deshmukkh
A.G.P. for respondents : Mr. S. R. Palnitkar
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**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 26th FEBRUARY, 2015

ORAL JUDGMENT (PER A. V. NIRGUDE, J.) :-

1. This petition challenges the judgment and order dated 19.09.2003, passed by the learned Member of Maharashtra

Administrative Tribunal, Bench at Aurangabad, on petitioner's Original Application No. 115 of 2002. By way of said Original Application, the petitioner had questioned the validity of order dated 27.09.2000, passed by the State Government. The said order was passed after the petitioner was found guilty of misconduct. As and by way of punishment, pension of the petitioner at the rate of Rs. 10/- per month was reduced for a period of one year with dearness allowance.

2. The petitioner was working as Sub-Divisional Officer in Irrigation Department. In the year 1993, the Government initiated inquiry against him. During pendency of said inquiry, the petitioner reached at the age of superannuation in the year 1996, but the inquiry still continued and ultimately, order dated 27.09.2000 was passed by the Inquiry Officer.

3. It is nobody's case that after the retirement of petitioner, he was paid provisional pension. So we presume that such pension was not paid to him, but it appears that after inquiry was over, he was paid arrears of pension. However, he was not paid interest on delayed payment of pension.

4. The learned Member has confirmed the order of the

Government dated 27.09.2000, by which, Rs. 10/- per month was reduced from the pension amount of the petitioner. However, the learned Member did not pay attention to petitioner's prayer in respect of interest on delayed payment of arrears of pension. In order to decide as to whether the petitioner was entitled to interest on the delayed payment of pension, we must read the provisions of Rule 129 (B) of the Maharashtra Civil Services (Pension) Rules, 1982. The said Rule reads as under :

“129 B- Interest on delayed payment of Pension.

- (1) If the payment of pension has been authorized after six months from the date when its payment became due and it is clearly established that the delay in payment was attributable to administrative lapse, interest at the rate of 10 per cent per annum in respect of the period beyond six months shall be paid on the amount of pension:*

Provided that, no interest shall be payable if the delay in payment of pension was attributable to the failure on the part of the Government servant to comply with the procedure laid down in the Chapter.

Provided further that, no interest shall be payable for the period for which a provisional pension is sanctioned. In case of Government servant to whom provisional pension is sanctioned an interest as provided shall be

paid after a period of six months from the cessation of provisional pension till the final pension is authorized.

- (2) On an application made by the pensioner the concerned Administrative Department in Mantralaya shall consider the request for payment of interest and where the Department is satisfied that the delay in the payment of pension was caused on account of administrative lapse, that Department shall make a recommendation to the Finance Department for the payment of interest.*
- (3) If the recommendation of the Department made under sub-rule (2) is accepted by the Finance Department, the Department concerned shall issue government sanction for the payment of interest.*
- (4) In all cases where the payment of interest has been authorized with the concurrence of the Finance Department, the Department concerned shall fix the responsibility and take disciplinary action against the Government servant or servants concerned who are found responsible for the delay in the payment of pension and recover the amount of interest required to be paid from the Government servant, or servants concerned, including the concerned officer, who are found responsible for the delay in the payment of pension.*
- (5) If as a result of Government's decision taken subsequent to the retirement of a Government servant, the amount of pension already paid on his retirement is enhanced on*

account of -

(a) grant of pay higher than the pay on which pension, already paid, was determined; or

(b) liberalization in the provisions of these rules from a date prior to the date of retirement of the Government servant concerned, no interest on the arrears of pension shall be paid."

5. The question as to whether the delay occurred due to administrative lapse or not, would decide as to whether an employee is entitled to interest. In this case, after the inquiry was over, the claim of petitioner ought to have been considered by the Administrative Department, *suo-moto*. They ought to have decided as to whether the petitioner was entitled to interest as provided in Sub-Rule (2) of Rule 129 (B), quoted above. This was apparently not done in this case.

6 In view of delay in disposal of this Writ Petition, we are not inclined to send the case back to the Department to decide such question. We have some evidence on record, which indicates that some delay is occurred in completing the inquiry. As said above, the inquiry against the petitioner was started in the year 1993 but was completed only after the retirement of the petitioner on superannuation i.e. in the year 2000. The question is why the inquiry

remained pending for such a long period of 7 years? Whether the petitioner was responsible for this pendency? It is no one's case that petitioner sought adjournment and caused delay. On the other hand, the respondents, in their reply, admitted that the inquiry got delayed mainly because the Inquiry Officer had pending cases. In view of this, it is clear that it was not the petitioner, who was responsible for delay in disposal of inquiry. Hence, this is a fit case where the Government ought to have awarded interest as provided in Sub-Rule (1) of Rule 129 (B), quoted above. In the light of above, petition should succeed to that extent. The Writ Petition is disposed of. Rule is made absolute in the above terms.

7. The respondent Government shall pay interest at the rate applicable to General Provident Fund deposits, on the amount of pension for the delayed period beyond 6 months. This amount shall be calculated and paid to the petitioner within a period of 2 months from today.

8. In view of disposal of Writ Petition, nothing survives in Civil Application No. 852 of 2008 and the same is also disposed of.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)