

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

WRIT PETITION NO. 4584 OF 2015.

SURYABHAN DATTARAO MORE.

VERSUS

STATE OF MAHARASHTRA & ORS.

Appearance =>

Mr. Govind G. Suryawanshi, Advocate for the Petitioner.

Mrs. S.A. Dhumal, Additional Government Pleader for
Respondent No.1 - the State.

Mr. Ingole Patil, Advocate for Respondent Nos. 2 to 4.

**Coram : S.S. Shinde,
A.M. Badar, JJ.**

Date : 28th September, 2015.

Per Court :-

Mr. Govind Suryawanshi, learned counsel or the Petitioner submits that the Petitioner attained the age of superannuation and he retired from the post of Clerk on 31st January, 2015. The Petitioner was placed under suspension under Rule 16 of the Maharashtra Civil Services (Conduct) Rules, 1979 only on the ground that one criminal case is pending against him.

[2] The learned counsel submits that since retiral benefits including gratuity and remaining salary of suspension period of the Petitioner have not been paid to the Petitioner, in fact, the respondents are liable to pay interest over the said amount.

[3] Mr. Ingole Patil, the learned counsel for the Respondent – Nanded Waghala City Municipal Corporation submits that w.e.f. 1st November, 2006 till the date of retirement, the Petitioner was under suspension, as a criminal case is pending against him. He further submitted that, on that count, the retirement benefits of the Petitioner are withheld. Said criminal case is *sub judice*.

[4] We have considered the submissions canvassed by the learned counsel for the respective parties.

[5] The Petitioner, undisputedly was the permanent employee of Respondent No.2 corporation. No departmental enquiry has been initiated against the Petitioner at any material point of time. There is no reason for withholding the retiral benefit, as admissible to the Petitioner. Mere pendency of criminal case would not be a ground for withholding retiral benefit of the Petitioner.

[6] Considering the above, we pass the following order :-

ORDER

(a) Respondents shall release gratuity and retiral benefit as admissible to the Petitioner as per law, expeditiously and preferably within six months.

(b) As far as salary of suspension period of the Petitioner is concerned, the Petitioner may make an application to the respondents, which shall be considered by the Respondent No.2 on its own merits.

(c) It is submitted that the Petitioner is already paid provisional pension. As such the Petitioner is now to be paid the amount of gratuity and other benefits in law.

(d) Writ Petition disposed of. No costs.

[A.M. BADAR, J.]

[S.S. SHINDE, J.]