

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

WRIT PETITION NO. 5493 OF 2010

MADHUKAR GANPATRAO CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Petitioner : Mr.T.J.Poul h/f Mr. W.S.Jadhav

AGP for Respondents : Mr. S.D.Kaldate
Advocate for Respondents : Mr.S.P.Landge h/f
M.C.Swami

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CORAM : A.V. NIRGUDE & V.K. JADHAV, JJ.
Dated: September 15, 2015

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PER COURT :-

1. We have perused the earlier order, by which we had directed the counsel for the parties to come prepared today for making submissions on the petition. We proposed to dispose of the petition at admission stage. Today, Advocate Shri Poul holding the brief of Mr. Jadhav appeared for petitioner, but, he says that he is not prepared to make submissions. He also mentioned that Advocate Shri W.S.Jadhav is appointed to make submissions on the petition. If Mr. Jadhav is absent, we are constrained to dismiss the petition for non prosecution, but, in the interest of justice, we would

keep back this petition till **2.30 p.m.** We expect that Advocate Shri Jadhav would come to make submissions. In case of default, petition would dismiss with costs.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

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At 2.30 p.m.

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Mr. W.S.Jadhav Advocate for petitioner.

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PER COURT :-

1. Heard.
2. This petition challenges the order dated 29.3.2010 passed by the Chief Executive Officer, Zilla Parishad, Aurangabad thereby refusing to pay interest on delayed payment of arrears of salary etc to the petitioner. We are not inclined to entertain this petition as we are of the view that the petition raises a flimsy issue. The facts leading to this petition in short, can be stated as under:-
3. In 1990, while the petitioner was working as Junior Assistant in Zilla Parishad, a criminal complaint was filed against him for alleged misappropriation of

certain amounts. On one side, criminal case went on against the petitioner. On the other side, the Zilla Parishad, started departmental enquiry against him. In 1994, departmental enquiry was completed and the petitioner was found to be guilty and he was awarded certain penalty. As against this judgment of 1994, the petitioner went in appeal before the Additional Divisional Commissioner, who partly allowed the appeal on 14.5.2003. The Additional Commissioner, *interalia*, directed the Chief Executive Officer, Zilla Parishad to decide as to whether the suspension period of the petitioner should be counted as period on duty or otherwise. The Chief Executive Officer held against the petitioner in 2003. As against this, the petitioner again went to the Additional Divisional Commissioner, who ultimately allowed the appeal on 26.11.2007 and directed the Chief Executive Officer, Zilla Parishad, to re-decide the issue of suspension period. Thereafter, on 7.2.2008, the Chief Executive Officer held that the period of suspension should be treated as period on duty, for all purposes. It is thereafter, the Zilla Parishad, started taking steps regarding revision in

pensionary benefits and ultimately the pensionary benefits were also given to the petitioner. The petitioner then demanded interest on the delayed payment.

4. From the facts narrated above, we are not inclined to accept the petitioner's grievance, as the delay was caused only because of lethargy on the part of authorities of the Zilla Parishad. Having regard to the fact that several appeals were filed by the petitioner and pendency of the appeals lasted for number of years. In juxtaposition, the delay is only for two years and therefore, we do not intend to exercise our writ jurisdiction so as to interfere in the impugned order. The writ petition is accordingly dismissed. No costs.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

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aaa/-