IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8085 OF 2012

Deepak Dattusingh Guhilot .. Petitioner

Versus

Shri Sharda Bhuvan Education
Society and others .. Respondents

Shri P. V. Mandlik, Senior Advocate i/by Shri Amol S. Gandhi, Advocate for the Petitioner.
Shri R. R. Sancheti, Advocate h/f Shri R. R. Mantri, Advocate for Respondent Nos. 1 and 2.
Shri A. S. Shinde, A.G.P. for Respondent Nos. 3, 4 and 5.

CORAM : S. V. GANGAPURWALA AND
V. L ACHLIYA, JJ.
DATE : 16TH FEBRUARY, 2015.

PER COURT :

. Mr. Mandlik, the learned senior counsel submits that, deliberately the authorities did not submit the pension papers complete in all respects within the time. The Principal of the respondent/college kept deficiencies and did not annex relevant Government Resolution, as such delay was caused in making compliance. Prior to two years of the retirement process of completing pension papers has to start. The petitioner on his part had complied with all the relevant requirements. Even the service book was with the respondent Nos. 1 and 2. It is respondent Nos. 1 and 2 who had committed delay in processing the pension papers and sanctioning the same. In view of Rule 129(B) of the Maharashtra Civil Services (Pension) Rules, 1982, the petitioner is entitled for interest at the rate of 10% per annum on delayed payment.

2. Mr. Sancheti, the learned counsel for the respondent/management submits that, it is the petitioner who was at fault. The petitioner checked all the information written on pension papers and thereafter signed it. It is the petitioner who is at fault in complying with all the relevant papers. No fault can be attributed to the respondent/management. The proposal was returned by the Accountant General for certain compliance. There was break in service of the petitioner from 20.06.1979 to 12.09.1979. The approval of the competent authority for condonation of break remained to be obtained as per the objection raised by the Accountant General Nagpur. There was also dispute with regard to the pay fixation and grant of future increment. The Senior Accountant General, Nagpur lost sight of entry in service book regarding break in service. This was brought to the notice of Senior Account General by respondent/management vide letter dated 11.11.2011. There is no willful or intentional delay on the part of the respondent/management.

3. The learned A. G. P. submits that, on receipt of proposal for grant of pension by the Accountant General, the same has been processed and amount of gratuity is released.

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

5. The petitioner retired on 31.07.2011 and the petitioner received the pension amount and gratuity in August 2012. There would be a delay of about eleven months. Sec. 129 of the M. C. S. (Pension) Rules lays down that if within six months from the date of retirement pension is not received, then the party is entitled for interest beyond six months. However, the same would be only if delay is attributable due to the administrative lapses.

6. In the present case, the period of delay to be considered for payment of interest would be of five months. The reasons are given in affidavit in reply as to how proposal came back from the Accountant General and immediately compliance is being done and, thereafter the same was forwarded to the Accountant General.

7. Considering the explanation given in the affidavit in reply and considering arguments canvassed by learned counsel for respective parties, we do not see this is a fit case for invoking

Rule 129 of the M. C. S. (Pension) Rules for payment of interest. The reasons are given in the affidavit in reply for the delay caused about various aspects as detailed in affidavit in reply. In the light of that, writ petition is disposed of. No costs.

[V. L ACHLIYA, J.] **[S. V. GANGAPURWALA, J.]**

bsb/Feb. 15