

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

WRIT PETITION NO. 8265 OF 2014

Bhimrao Ganpatrao Alte

.. Petitioner

Versus

Maharashtra Small Scale Industries

Development Corporation Ltd. Mumbai .. Respondent

Shri N. B. Suryawanshi, Advocate for the Petitioner.

Shri A. R. Borulkar, Advocate for Respondent/Sole.

**CORAM : S. V. GANGAPURWALA AND
V. L ACHLIYA, JJ.**

DATE : 11TH FEBRUARY, 2015.

PER COURT :

. Mr. Suryawanshi, the learned counsel for the petitioner submits that, an amount of Rs. 2,25,000/- from the retiral benefits of the petitioner has been withheld by the respondent. No departmental enquiry is initiated against the petitioner, nor at any point of time even minor punishment is imposed on the petitioner to withhold the amount. The learned counsel submits that reason given for withholding the amount is that some of the suppliers had supplied faulty articles and in case some recovery is claimed from the respondent, then for the said purpose the amount is retained. According to the learned counsel, even the suppliers who had supplied the alleged defective articles have

deposited an amount of Rs. 2,37,552/-, as such, no question arises of any loss being caused to the respondent. The learned counsel submits that, none of the parties to whom the articles have been supplied have ever claimed any amount from the respondent, still the respondent has withheld an amount of Rs. 2,25,000/- from the retiral benefits of the petitioner.

2. Mr. Borulkar, the learned counsel for the respondent submits that, as per the report of Mr. B. V. Gopal Reddy committee three industries provided the sub standard quality material. The petitioner was incharge of the Yeotmal district and it was his duty to check the material before the same is distributed amongst the farmers. The petitioner failed to perform his duty. The explanation was sought from the petitioner. The explanation was not satisfactory. Even the question was raised in the Assembly with regard to supply of sub standard material to the farmers and the assurance was given by the Managing Director of the Corporation that action would be taken against the responsible officer, as such action has been taken which is legal and proper. If, in future it is found that the loss is occurred due to negligent act of the petitioner, then it would be very difficult to recover the amount from the petitioner.

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

4. The office note of the administration department under the signature of the General Manager Administration placed on record, very clearly states that, the respondent has collected Rs. 2,37,552/- in respect of defective supply from three suppliers. As such, no question arises of any loss being caused to the respondent. Even otherwise no Departmental Enquiry is initiated against the petitioner, nor even minor punishment is imposed upon the petitioner. It is also nowhere placed on record or submitted, that any claim is lodged against the respondent in respect of defective supply of the articles. Considering all the aforesaid factual matrix of the matter, it was inappropriate for the respondent to withhold Rs. 2,25,000/- from the retiral benefits of the petitioner.

3. Mr. Suryawanshi, the learned counsel submits that, even difference of 5th Pay Commission was paid late by one year. The amount comes to Rs. 8,23,487/-. The petitioner is entitled for interest at the rate of Rs. 12% per annum for the delayed payment of the same.

4. In the light of the above, the respondent is directed to release the amount of Rs. 2,25,000/- to the petitioner. The said amount be released within a period of three (3) months from today. We are not inclined to consider the prayer of interest for delayed payment of arrears of 5th Pay Commission. However, as

far as amount of Rs. 2,25,000/- is concerned, the respondent could not have withhold the amount and more particularly when it is matter of record that at no point of time any Departmental Enquiry was initiated, nor minor punishment is imposed upon the petitioner. On the contrary the said amount was recovered from the suppliers. Therefore, the petitioner is entitled for interest at the rate of Rs. 9% per annum for the delayed payment on the amount of Rs. 2,25,000/- from the lapse of six months after the date of retirement of the petitioner till the repayment. The respondent shall pay amount of Rs. 2,25,000/- along with interest at the rate of 9% per annum from lapse of six months after date of retirement of petitioner till repayment within three months. The writ petition is accordingly disposed of, however, with no order as to costs.

[V. L ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]