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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1629 OF 2013**

Ravindra Uddhavrao Ingule

... Petitioner

Versus

Industry Energy and Labour Department
and Ors.

... Respondents

Ms. Vijaya Mishra i/by Mr. Sailesh Chavan, for the Petitioner.
Mr. J.S. Saluja, AGP, for the Respondent Nos.1 to 3.

**CORAM : A.S. OKA &
REVATI MOHITE DERE, JJ.**

DATE : 21st JULY, 2015

PC.

. The Petitioner who retired as a member of the Industrial Court with effect from 12th January, 2009 has filed this Petition under Article 226 of the Constitution of India for grant of benefits as per the recommendations of the report submitted by Justice Padmanabhan Committee. On 5th January, 2011, the State Government issued a Government Resolution for implementation of the recommendations of the Committee headed by Justice Padmanabhan. Notice for final disposal at admission stage was issued.

2. The Apex Court passed an order appointing a Committee headed by Justice Padmanabhan for recommending pay scales for Judicial Officers working in the Districts and other Courts. In July 2009, the Committee submitted its report before the Apex Court. On 4th May, 2010 and on 2nd August, 2010, the Apex Court directed all the States to implement the recommendations of Justice Padmanabhan Committee with effect from 1st January, 2006. In fact, a specific direction was issued under order dated 4th May, 2010 to the State Governments directing them to apply the recommendations with retrospective effect from 1st January, 2006 and to pay the arrears within a period of two financial years. On the basis of the said direction, on 22nd October, 2010, a Government Resolution was issued by the State Government which was applicable to the Judges of the Civil Courts and District Courts. A further Government Resolution was passed on 5th January, 2011 which dealt with not only pay scales but grant of pension at revised rates and grant of other amenities such as medical allowance, peon allowance, etc. The said Government Resolution was specifically made applicable to the Presidents and Members of the Industrial Court who were Judicial Officers appointed on deputation.

3. The Petitioner was not appointed on deputation. The Petitioner was selected by nomination. The Petitioner was first posted as

a Member of the Industrial Court by order dated 21st July, 1993. The Petitioner was posted at Solapur.

4. On 18th January, 2011, the learned President of the Industrial Court, Maharashtra addressed a letter to the Principal Secretary of the Law and Judiciary Department pointing out that some of the Members of the Industrial Court were directly appointed by nomination and, therefore, it is necessary to extend the benefits under the Government Resolution dated 5th January, 2011 to such Members. Repeatedly, such representations were made by the learned President of the Industrial Court, Maharashtra State. The Petitioner superannuated on 12th January, 2009. One such representation made on 4th December, 2012 has been annexed as Exhibit "I-2" to the Petition. As the State Government did not take any action, the present Petition was filed seeking a writ of mandamus to extend the benefits of the recommendations of the Committee headed by Justice Padmanabhan to the Petitioner and to similarly placed persons.

5. On November 18, 2013, a notice was issued to the State Government of this Petition. On 9th June, 2014, parties were put to notice that the Petition will be heard finally at the admission stage. The State Government did not file any reply and, therefore, by the order

dated 30th September, 2014, this Court directed that if a reply is not filed by the Respondents, the Petition shall be heard on the basis of uncontroverted averments made in the Petition. Ultimately, as late as on 24th November, 2014, the State Government issued a resolution extending the benefits of the recommendation of Justice Padmanabhan Committee to the Members of the Industrial Court who were appointed by nomination. Affidavit dated 26th November, 2014 is tendered today by the learned AGP. We may note here that when the Petition was produced before this Court on 29th June, 2015, this Court directed that if reply is not filed by the Respondents on or before 16th July, 2015, the Court will proceed without the reply.

6. The learned counsel appearing for the Petitioner has tendered a chart which is taken on record and marked 'X-1' for identification. In the chart, it is stated that on 13th March, 2015, the Petitioner received a sum of Rs.3,83,258/- being the Leave Encashment in terms of the recommendations of Justice Padmanabhan Committee. He received a sum of Rs.12,56,315/- on 4th April, 2015 towards the difference of pay in terms of the recommendations of Justice Padmanabhan Committee. Further, she pointed out that other benefits such as difference in gratuity, difference in commutation pension, family pension, domestic assistance allowance, medical allowance, etc. have not been paid to the Petitioner. The learned counsel appearing for the

Petitioner has also tendered across the bar a copy of order dated 29th June, 2015 passed by the Accountant General, Maharashtra. As per the said order, family pension at enhanced rate has been fixed and commutation pension payable to the Petitioner has been also fixed. The amounts payable as per order dated 29th June, 2015 have not been released.

7. After having heard the learned counsel appearing for the Petitioner and the learned AGP for the Respondents, we find that there is a gross delay on the part of the State Government in taking action on the basis of the directions of the Apex Court issued on 4th May, 2010. By subsequent order dated 2nd August, 2010 passed by the Apex Court in Interim Application No.244 in Writ Petition (Civil) No.1022/1989, 31st March, 2011 was fixed as a pre-emptory cut-off date for making payment of arrears as per the report of the Committee headed by Justice Padmanabhan. The extract of the report of the Committee headed by Justice Padmanabhan is also a part of the compilation of the Petition.

8. We fail to understand as to why the State Government, while issuing the Government Resolution dated 5th January, 2011, extended the benefits only to the Presidents and Members of the Industrial Court who were appointed on deputation. There was no

reason to exclude the Presidents and Members who were appointed by nomination. The learned President of the Industrial Court was forced to make repeated representations to the State Government for grant of benefits. In fact, along with letter dated 21st April, 2011, the learned President forwarded list of three Members including the Petitioner who had retired after 1st January, 2006 by pointing out that there was no reason to deny benefits to the said Members. As stated earlier, pre-emptory date of 31st March, 2011 was fixed by the Apex Court.

9. We have perused the affidavit of Shri Digambar Sonusing Rajput, the Deputy Secretary, Industries, Energy and Labour Department of Government of Maharashtra. No reasons have been assigned as to why there was such a long delay in issuing a Government Resolution for covering the cases of the officers who were similarly placed as the Petitioner. As stated earlier, the Government Resolution was issued on 24th November, 2014 i.e. nearly three years after the cut-off date fixed by the Supreme Court was over.

10. Therefore, the State Government will have to pay interest on the amounts payable to the Petitioner as per the recommendations of the Commission headed by Justice Padmanabhan in terms of the Government Resolution dated 24th November, 2014. Interest will be

payable at the rate of 9% per annum from the date of filing of this Petition. The State Government will have to be saddled with costs. The amount of costs is quantified at Rs.50,000/-. Needless to state that interest will be payable even on the amounts released during the pendency of this Petition towards the difference in pay and leave encashment from the date of filing of the Petition till the respective dates on which the amounts have been released. Hence, the Petition must succeed and we pass the following order :-

ORDER

- (i) We direct the Respondent Nos.1 to 3 to release all the benefits payable to the Petitioner in terms of the Government Resolution dated 24th November, 2014 as expeditiously as possible and in any event within a period of two months from today;
- (ii) First to third Respondents shall pay interest to the Petitioner on all the amounts due and payable under the Government Resolution dated 24th November, 2014 at the rate of 9% per annum from the date of lodging of this Petition (3rd April, 2013) till the respective dates of actual payment. We make it clear that the Petitioner shall be entitled to interest at the aforesaid rate even on the amounts of Rs.12,56,315/- and Rs.3,83,258/-

released earlier. Interest due on the amounts already released shall be payable to the Petitioner within a period of two months from today;

- (iii) We direct the first to third Respondents to pay to the Petitioner costs of this Petition quantified at Rs.50,000/- within a period of two months from today;
- (iv) Needless to state that the State Government shall extend the benefits under the Government Resolution dated 24th November, 2014 to the similarly placed Members of the Industrial Court who had retired after 1st January, 2006. The benefits shall be extended to the similarly placed persons within a period of two months from today;
- (v) Rule is made absolute on above terms.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)