

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

Writ Petition No. 2296 of 2015

(Dr. Mohammad Badre Jameel S/o Abdul Rauf Vs. State of Maharashtra
through its Principal Secretary, Ministry of Health and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri Mandlekar, Advocate for the petitioner
Shri N. R. Rode, AGP for the respondent nos. 1 to 4

**CORAM : Smt. Vasanti A. Naik and
Prasanna B. Varale, JJ.**

DATE : 16-12-2015.

Heard.

By this petition, the petitioner seeks a direction to the respondents to pay an amount of Rs. 1,31,448/- to the petitioner with interest at the rate of 18% per annum.

The petitioner, who was working as Laboratory Technician, attained the age of superannuation and when his retiral benefits were payable, the respondents authorities sought recovery of amount of Rs. 1,31,448/- from the petitioner on the ground that the petitioner was wrongly paid the said amount towards dearness allowance. The action of the respondents was challenged by the petitioner in the Maharashtra Administrative Tribunal. The Maharashtra Administrative Tribunal allowed the original application filed by the petitioner and directed the respondents to pay the sum of Rs. 1,31,488/- as the same was wrongfully recovered

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from the petitioner in view of the communication of the Treasury Officer dated 9-2-2007. The respondents filed the writ petition challenging the order of the Tribunal. The matter was remanded to the Tribunal for a fresh consideration. By an order dated 28-10-2014, the Maharashtra Administrative Tribunal again allowed the original application filed by the petitioner and directed the respondents to pay the sum of Rs. 1,31,448/- to the petitioner.

Though the petitioner was running from pillar to the post from the year 2007 challenging the wrongful recovery of Rs. 1,31,448/- and though the Tribunal had in the earlier round of litigation by the order dated 7-5-2010 directed the respondents to pay the amount to the petitioner, the amount was not paid. Only, in 2015, during the pendency of this writ petition, the said amount is paid to the petitioner. The petitioner is seeking interest on the said amount.

The learned Assistant Government Pleader has tendered an affidavit in reply on behalf of the respondent no. 4 in the Court today. The same is accepted on record. We do not find anything in the reply of the respondent no. 4 which would point out that the delay in making the payment of the wrongly recovered amount to the petitioner is either due to the mistake of the petitioner or due to some unavoidable circumstances. The petitioner, who was working as Laboratory Technician, has been deprived of his legitimate claim for a considerable period due to the wrongful action on the part of the

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respondents.

Hence, though the amount due and payable to the petitioner has been paid to the petitioner during the pendency of the writ petition, the respondent nos. 1 to 3 are liable to pay interest on the said amount to the petitioner at the rate of 7.5 % per annum with effect from 7-5-2010 till the amount was actually paid to the petitioner. The amount of interest should be paid to the petitioner within a period of eight weeks.

Order accordingly. No costs.

JUDGE

JUDGE

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