

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

M.C.A. NO.233/2013 IN WRIT PETITION NO. 1482/2007 (D)
 (RAMCHANDRA PAIKUJI LANJEWAR **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

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

Court's or Judge's orders

Shri A.D. Mohgaonkar, counsel for the applicant-petitioner.
 Shri A.R. Deshpande, counsel for the R-1.
 Shri Rohit Deo, A.S.G.I. for the R-2 & 3.
 Shri A.R. Patil, counsel for the R-4.

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATE : NOVEMBER 23, 2015.

By this application, the applicant seeks a review of the order dated 15.12.2008 in Writ Petition No.1482 of 2007.

We find that the applicant-petitioner had filed Writ Petition No.2426 of 2004 before filing Writ Petition No.1482 of 2007 and in the said writ petition, the petitioner had sought for the pension and pensionary benefits including the arrears of pension and pensionary benefits. The said writ petition was partly allowed by the judgment dated 22.03.2005 and this Court directed the respondents to pay pension and pensionary benefits inclusive of all arrears as expeditiously as possible and within a period of three months. After the said writ petition was decided, the petitioner filed Writ Petition No.1482 of 2007, seeking a direction to the respondents to pay the unpaid dues towards Death-Cum-Retirement-Gratuity and Commuted Value of Pension. When the writ petition came up for hearing on 15.12.2008, a statement was made that all the claims of the petitioner were satisfied and the respondents may be directed to only pay interest at the rate of 12% per annum on the amount of pensionary benefits. The said prayer of the applicant-petitioner was rejected as the applicant-petitioner

had not been able to point out either any contract or any law which obliged the respondents to pay interest on the said amount.

We do not find that the applicant has made out any ground for seeking a review of the order dated 15.12.2008. In fact, the prayer of the applicant for delayed pensionary benefits could not have been made in the second writ petition in view of the principles akin to the principles of *Constructive Res-Judicata*. The applicant-petitioner had filed Writ Petition No.2426 of 2004 seeking the pensionary benefits. Though a direction was issued against the respondents to pay the pensionary benefits, no direction was made against the respondents to pay the interest on the pensionary benefits. Even if the prayer for interest is made and not granted, the same is deemed to have been refused. If the same is not made at all, the applicant-petitioner would not be entitled to make it in the second petition.

In the circumstances of the case, we dismiss the review application. No costs.

JUDGE

JUDGE

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