

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

WRIT PETITION NO. 7634 OF 2013

Bhaorao Apparao Raut

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Dr. S. K. Patil, Advocate for the Petitioner.

Shri B. V. Virdhe, A.G.P. for the Respondent No. 1.

Shri V. S. Panpatte, Advocate for Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.**

DATE : 17TH OCTOBER, 2016.

PER COURT :

. Mr. Patil, the learned counsel for the petitioner submits that, the petitioner was getting provisional pension on the ground that Departmental Enquiry is pending. The petitioner is entitled for regular pension of Rs. 16,027/-, however is been paid Rs. 13,299/-. The difference of pensionary benefits deserves to be paid to the petitioner. The learned counsel submits that, even the gratuity amount is not paid to the petitioner, nor the G.P.F. amount. According to the learned counsel the Departmental Enquiry is also concluded. The petitioner is entitled for the amount of G.P.F., gratuity and full pension, so also arrears of pension.

2. Mr. Panpatte, the learned counsel for respondent Nos. 2 and 3 submits that, initially provisional pension was sanctioned to the petitioner as Departmental Enquiry was pending. Subsequently, departmental enquiry is concluded. The petitioner is found guilty and punishment is imposed upon the petitioner of reducing pay by Rs. 50/- from the basic pay. The final pension and gratuity has also been sanctioned by the Education Officer by order dated 29.11.2012, however, the petitioner has failed to complete his application for leave for the period 24.07.1994 to 24.11.1994 i. e. for total 127 days, as such, it is because of the laxity on the part of the petitioner, the delay is being caused and not at the fault of respondents.

3. Now it is not disputed that, the departmental enquiry is concluded. Minor punishment is imposed upon the petitioner of reducing basic pay by Rs. 50/-. Naturally, the petitioner would be entitled for pension as per the pay scale that would be applicable upon implementation of the punishment. The grievance of the petitioner of not having received gratuity, G.P.F. may not survive as the amount of gratuity is also sanctioned by the Education Officer, so also the pension amount is calculated. According to the respondents, the petitioner has to complete formalities of filing application for leave for the period 24.07.1994 to 24.11.1994 total 127 days and that is as yet not filed.

4. The petitioner shall make the necessary compliance with regard to the leave as contended by the respondents in para 2 of the affidavit in reply. The petitioner undertakes to file such an application within two weeks from today. Upon the said application being filed, the respondent Nos. 2 and 3 shall take appropriate decision and release the amount to the petitioner, of which the petitioner would be entitled to as per law immediately. The writ petition accordingly is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]