

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

923 WRIT PETITION NO.10279 OF 2015

VISHWANATH MADUDAPPA DADGE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Chaudhari Md Mujeebuddin Ms

Mr. SK Tambe, AGP for Respondents: 1 to 3;

Mr. Barde Parag Vijay, Adv. For R/4

**CORAM : S.S.SHINDE &
P.R.BORA,JJ.**

DATE : 25th February, 2016.

PER COURT :

1) Learned Counsel appearing for Respondent No.4 has tendered across the Bar affidavit in reply. Same is taken on record.

2) Heard learned Counsel for the respective parties.

3) The petitioner is claiming retiral benefits

with 18% interest per annum from the date of the amount due till realization of the amount.

4) The Apex Court time and again has laid down that pension is not a bounty but the hard earned money and the property of the employee. The retiral benefits are normally to be paid within six (6) months of the retirement of an employee. Considering the financial condition of the Municipal Council, it would be inappropriate to grant interest amount at the higher rate. However, in token of having deprived of the use and enjoyment of the said amount for along time, we award interest at the rate of 6% p.a.

5) Learned Counsel appearing for Respondent No.4, relying upon the averments in the affidavit in reply submits that, the petitioner has retired from service on 1st September, 2010. His total amount due towards pensionary benefits was Rs. 5,43,283/- and an amount of Rs. 4,86,870/- is paid till today and only difference of 6th Pay Commission of Rs. 56,413/- is balance. However, the statement made in the affidavit in reply is disputed by the learned Counsel

appearing for the petitioner.

6) In the circumstances, we direct the respondents to recalculate the pensionary benefits due and payable to the petitioner and after recalculation, pay the amount due and payable to the petitioner towards difference in 6th Pay Commission within four months. In case after recalculation, petitioner is found entitled for any further amount, in addition to the amount which is already disbursed to him towards the retiral benefits, the same may also be paid to the petitioner within four months from today.

7) The Respondent/Municipal Council, Udgir shall pay interest @ 6% p.a. On the amount of retiral benefits calculated after the lapse of six months after the date of retirement till the amount is paid by the Municipal Council. The said amount of interest be paid to the petitioner expeditiously and preferably within a period of four months from today.

8) Needless to observe that before entering into recalculation of the entitlement of post-retiral

benefits, the petitioner be heard by the respondent.

9) The Writ Petition stands disposed of on
above terms. No costs.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

bdv/