

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

WRIT PETITION NO. 3846 OF 2008

The State of Maharashtra and others .. Petitioners

Versus

Nagorao Satwaji Suryawanshi .. Respondent

Shri R. D. Dasalkar, A.G.P. for Petitioners/State.

Shri A. D. Gadekar, Advocate for Respondent.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 10TH AUGUST, 2017.

ORDER :

. The present respondent had filed original application before the Maharashtra Administrative Tribunal seeking interest on account of delayed payment of the salary. The said original application is allowed and the present petitioners are directed to pay interest for the delayed period at the rate of Rs. 10% per annum. The said order is assailed in the present writ petition.

2. The learned Assistant Government Pleader submits that, the employee is entitled for the interest only if the payment on account of pay fixation is made after six months after passing of the Government order in regard to the pay fixation. For the said

purpose, the learned A. G. P. relies on the Government Resolution dated 22nd November, 1994. The learned A. G. P. states that, case of the present respondent was considered on sympathetic ground and his period of absence from 03.08.1992 to 17.09.1995 was regularized as duty period under order dated 12th December, 2003 and the payment of arrears has also been made over to him immediately and there was no delay beyond six months. In view of that, the order of the Tribunal is improper.

3. The learned counsel for the respondent supports the order.

4. We have gone through the judgment delivered by the Tribunal and have considered arguments canvassed by learned counsel for respective parties. On or about 03.08.1992, the respondent was demoted from the post of store keeper to that of assistant store keeper and was kept waiting from 03.08.1992 to 17.09.1995. The Government realized its mistake. The respondent was required to wait from 03.08.1992 to 17.09.1995 and the arrears of salary for the said period were paid only on 05.01.2004.

5. It has been observed that, for no fault of the respondent, the respondent had to wait. The junior to the respondent was retained and the respondent was demoted. Upon realization of said mistake, Government passed an order regularizing said period and also paid him salary in the year 2004. The

respondent was deprived of the said amount, for such a long period.

6. It is clear that, the respondent was not required to pass departmental examination, as he has completed 45 years of age and he was wrongly demoted. That period is also regularized and the salary for the said period is paid only in the year 2004. The Tribunal has observed that, the proposal and recommendation made by the authority does not reveal that there was any fault on the part of the present respondent and delay in passing the order of regularization has not been justified by the Government. The delay in passing order of regularization was attributable not only to the administrative lapses, but also to the negligence of the competent authority who were handling the matter in question. The Tribunal has thereafter granted interest at the rate of Rs. 10% per annum.

7. We do not find any error committed by the tribunal in passing the said order.

8. In the light of that, the writ petition is dismissed. Rule discharged. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]