

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7359 OF 2007

Sarojini w/o Khanduappa Khot ... **Petitioner**

VERSUS

State of Maharashtra and ... Respondents
others

Mr. P. B. Salunke, Advocate for the petitioner
Mr. P.S. Patil, AGP for Respondent Nos. 1 and 2
Mr. R.V. Naiknaware, Advocate for respondent No.3.

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

DATE : 11th January, 2017

JUDGMENT :

1. Mr. Salunke, the learned counsel for the petitioner submits that the husband of the petitioner retired on 30th June, 2004. Pension is released to the petitioner on 3rd February, 2006. Husband of the petitioner died on 21.02.2005. According to the learned counsel, as the pension has not been disbursed immediately, the petitioner is entitled for interest @ 18% per annum. The learned counsel further submits that deductions have been made of Rs.58,997/- which is erroneous. Husband of the petitioner nor the petitioner had, at any point of time, were given notice of recovery of any credit society, so also difference amount of salary of 4th Pay commission and 5th Pay commission of

Rs.36,179/- is due and payable. The same is also not paid.

2. The learned counsel submits that there is a deliberate and willful delay on the part of the employer to pay the amount within time. As such the petitioner is entitled for interest.

3. Mr. Naiknaware, the learned counsel for the Municipal Council submits that husband of the petitioner retired on 30th June, 2004. Prior to the retirement, husband of the petitioner was directed to give four copies of photographs and other documents but the same were supplied to the office by the respondents only in the month of October and December, 2004. Because of the non supply of these documents, pension papers could not be processed. Within a month from the receipt of the documents, pension papers were forwarded by the Municipal Council to the Account General. The respondent Municipal Council is not responsible for the delay. The learned counsel further submits that on 29.03.2004, amount of Rs.1,35,761/- was already paid to the petitioner's husband. The learned counsel submits that total amount of Rs.95,176/- was recoverable from the husband of the petitioner. The

Municipal Council by Voucher Nos. 454 and 455, on 26.09.2005 paid Rs.33,027/- to the Municipal Council Workmen Cooperative Credit Society. The learned counsel submits that no delay is occasioned on account of respondent Municipal Council and all the amount due and payable has been paid to the petitioner.

4. We have heard the learned AGP also.

5. Pension, in normal course has to be sanctioned within six months of the retirement of an employee. No doubt, the employee also has to comply with necessary requirement. In the present case, it appears that the husband of the petitioner complied with the necessary requirement and papers only on 02.12.2004. Till 02.12.2004, employer cannot be made responsible for the delay. However, on and from 02.12.2004, the pension ought to have been sanctioned within six months. In the present case the pension is sanctioned on 23.12.2005 and the pension amount is paid to the petitioner on 03.02.2006.

6. We cannot go into the disputed fact about recovery. The employer would be liable to pay interest for a period of 7 months from July, 2005 to January, 2006.

7. In the light of above, the respondent Municipal Council shall pay interest on the delayed payment of pension to the petitioner for a period of seven months at the Rate of 9% per annum.

8. Rule is accordingly made partly absolute. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC