

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

REVIEW APPLICATION NO. 184 OF 2018

IN

WRIT PETITION NO. 4614 OF 2005

Dagadu Nilkanth Patil

..

Applicant

Versus

The Dhule District Cooperative Agriculture and
Rural Multi. Deve. Bank

Through Its Liquidator and others

..

Respondents

Shri. A. S. Deshpande, Advocate for Applicants.

Shri. M. S. Sonawane, Advocate for Respondent No. 1.

Shri. K. J. Suryawanshi, Advocate for Respondent No. 2.

**CORAM : S.V. GANGAPURWALA AND
S. M. GAVHANE, JJ.**

DATED : 12th October, 2018

PER COURT:

. The petitioner seeks review of the order passed by this court
(Coram: Shri. A. V. Nirgude and Shri. A. M. Badar, JJ) dated 09.07.2015

in Writ Petition No. 4614 of 2005. This court pursuant to the order under review allowed the writ petition and quashed the Departmental Enquiry initiated by the respondents against the petitioner and further directed to disburse the retiral benefits to the petitioner along with interest at the rate of 6% p.a. from the date of retirement till its actual realization.

2. Mr. Deshpande, the learned advocate for review applicants submits that the Government under its Resolution dated 24.04.1995 has resolved payment of interest at the rate of 12 % p.a. on the delayed payment of retiral benefits. The petitioner is made to suffer because of the illegal action of the respondent. Grant of 6% interest is not in consonance with the Government Resolution nor with the prevailing interest rate. The learned counsel relies on the judgment of the Apex Court in a case of **D. D. Tewari (Dead) Through Legal Representatives Vs. Uttar Haryana Bijli Vitran Nigam Limited and Others reported in (2014) 8 SCC 894.** According to the learned counsel though the order is passed by this court in the year 2016, the retiral benefits are not yet paid.

3. Mr. Suryawanshi, the learned counsel for the respondents supports the order.

4. Grant of interest is discretion of the court. This court while allowing the writ petition filed by the present applicant had directed payment of 6% p.a. interest on the delayed payment

5. The Government Resolution dated 24.04.1995 relied by the petitioner is based on the provision of Rule 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules 1982. It is not a matter of dispute amongst the parties that Maharashtra Civil Services (Pension) Rules 1982 do not apply to the present respondent – Institution.

6. In the present case, the Departmental Enquiry initiated against the petitioner has been quashed on technical ground that once the employees stand superannuated, then the Departmental Enquiry can not proceed against him. It is on this technical ground the Departmental Enquiry initiated against the petitioner has been quashed and set aside and the merits of the matter were not considered.

7. The court while passing the final order has exercised its discretion in a plausible manner. The discretionary order passed by the court would not be a subject matter of review, as it cannot be said that there is an error apparent on the face of record.

8. In light of the above, Review Application is dismissed. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

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