

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

WRIT PETITION NO. 5346 OF 2018

Gangadhar s/o. Mudgalrao Kulkarni .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Mr.R.K. Ashtekar, Advocate for the petitioner.

Mr.K.N. Lokhande, AGP for respondent/State.

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

DATED : 30.08.2018

P.C. :-

1. Mr. Ashtekar, learned Counsel submits that the Maharashtra Administrative Tribunal has dismissed the Original Application even without considering the facts and only on the ground that the pension was sanctioned on 15.06.2016 and the petitioner had retired on 31.05.2016, there was no delay. The Tribunal did not consider that the gratuity was paid to the petitioner on 11.07.2017 and the pension amount was paid in June, 2017. There was delay caused in paying the pension amount and other retiral benefits. Said aspect has not been considered.

2. Learned AGP supports the order.

3. It appears that the Tribunal dismissed the Original Application only on the ground that the pension was sanctioned on 15.06.2016 viz. within 15 days of the retirement of the petitioner on 31.05.2016. However, the Tribunal did not consider the date when the amount of retiral benefits was paid to the petitioner or that the date of payment of the pension. The petitioner was seeking interest on the delayed payment of pension. The Tribunal was required to consider the date of payment also. The Tribunal was required to consider Section 129(a) and 129(b) of the Maharashtra Civil Services (Pension) Rules, conjointly as it is submitted that the gratuity is tendered beyond one year of retirement. The Tribunal was also required to consider the delay and the one who is responsible for the delay and thereafter ought to have passed the judgment.

4. As all the aforesaid aspects are not considered, the impugned judgment is quashed and set aside. The parties are relegated to the Tribunal. The parties shall appear before the Tribunal on 19.09.2018.

5. The Writ Petition is partly allowed in above terms. No costs.

[S.M.GAVHANE, J.]

[S.V.GANGAPURWALA, J.]