

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

WRIT PETITION NO. 10228 OF 2016

Shri. Ambadas s/o. Uttareshawar Kshirsagar,
Age 62 years, Occu. Peon at present retired,
R/o. Kaprewadi Road, Near Temple, Karjat,
Taluka Karjat, District Ahmednagar.

... PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Agricultural, Animal Husbandary,
Dairy Development and
Fisheries Department,
Mantralaya, Mumbai-32.
2. The Commissioner for Agriculture,
Maharashtra State Pune.
3. The Divisional Agricultural Joint Director,
Pune Division, Pune.
4. Sub-Divisional Agricultural Officer,
Karjat.
5. The District Superintendent /
Agricultural Officer, Ahmednagar,
Taluka and District Ahmednagar.

... RESPONDENTS

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Mr. Anand V. Indrale Patil, Advocate for petitioner.
Mr. S. B. Yawalkar, AGP for respondents No. 1 to 5.

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**CORAM : R. M. BORDE and
K. K. SONAWANE, JJ.**

DATED : 21st FEBRUARY, 2018.

JUDGMENT (Per R. M. Borde, J.) :-

1. Rule. Rule made returnable forthwith. Heard finally, with consent of learned Counsel for respective parties at the stage of admission.
2. The petitioner is praying for issuance of directions to the respondents to pay an interest @ 10% per annum on the amount of difference in arrears of salary, gratuity and other pensionary benefits

paid to the petitioner beyond stipulated time. The petitioner was in employment with respondent No. 4. He was working as peon in Class-IV category since 1983. The petitioner retired on attaining the age of superannuation on 31-05-2015. During the continuance of employment, since the petitioner was not being paid salary in the pay-scale prescribed for class-IV employees, he presented a complaint bearing ULP No. 56 of 2005 to the Industrial Court. The complaint was allowed by the Industrial Court and it was directed to the respondents to cease and desist from continuing to engage in unfair labour practice. It was also directed to the respondents to fix the seniority of complainant-petitioner herein from the date of joining and record his name in the seniority list and to pay wages in the pay-scale. The decision was rendered by the Industrial Court, Ahmednagar on 12-01-2012.

3. The respondent department challenged the said decision of the Industrial Court by presenting Writ Petition No. 5980 of 2012. Writ petition came to be dismissed by the learned Single Judge of this Court on 07-01-2014 and the order passed by the Industrial Court was confirmed. The petitioner contends that even until his retirement and much thereafter the amount due and payable to him was not paid. The petitioner was paid gratuity amount on 26-05-2016. The payment of gratuity and other pensionary benefits are required to be paid within a period of three months from the date of retirement of the employee. Though, the petitioner retired on attaining the age of superannuation on 31-05-2015, the amount of the gratuity was paid to him on 26-05-2016. The amount of difference due and payable to the petitioner was directed to be paid by the Industrial Court in view of Judgment delivered in the year 2012. Though, direction by Industrial Court was in respect of payment of wages within a period of one month from the date of decision, however, it was paid after about four years. The amount of difference in wages paid to the petitioner was to the tune of Rs.3,42,080/-. The petitioner claims admissible interest on the amount of difference in salary in view of the Government Resolution dated 22-11-1994. The Government Resolution prescribes for payment of

interest payable on the amount of provident fund. Rule 129A of the Maharashtra Civil Services (Pension) Rules, 1982, provides for payment of interest in the event of delayed payment of pensionary benefits in respect of provident fund payable to the employees. The amount of interest variable in respect of the provident fund during the current year is approximately @ 8 % *per annum*.

4. In this view of the matter, we direct the respondents to pay the amount of interest @ 8 % *per annum* on account of delayed payment of the amount of gratuity and difference in arrears of salary in terms of the order passed by the Industrial Court in the year 2012. The respondents shall calculate the amount of interest on the amount of gratuity and amount of difference in arrears of salary and shall pay the same to the petitioner, as early as possible, preferably within a period of six months from the date of this order and it is accordingly directed.

5. The Rule is made absolute in above terms. There shall be no order as to costs.

Sd/-
[K. K. SONAWANE]
JUDGE

Sd/-
[R. M. BORDE]
JUDGE

MTK.