

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11008 OF 2016

Dattatray s/o Anandgir Giri
age 66 years, occ. service
r/o 'Prayaganand Building'
Tanaji Chowk, Shivshankar Colony
Aurangabad
Dist. Aurangabad.

Petitioner

Versus

1. The Aurangabad Municipal Corporation,
Aurangabad.
2. Shri Ayyub Khan
Deputy Commissioner
Municipal Corporation,
Aurangabad.

Respondents

Mr. B.L. Sagar Killarikar, advocate for petitioner.
Mr. A.R. Vaidya, advocate for respondent no.1.

**CORAM : R.M.BORDE &
K.K. SONAWANE, JJ.
DATE : 21st MARCH, 2018**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally with the consent of learned counsel for the respective parties.
3. Petitioner was employed with the Municipal Corporation,

Aurangabad and retired on attaining age of superannuation on 31.05.2009. Petitioner was facing departmental proceeding and was suspended by order dated 07.08.2006. The Municipal Corporation imposed major penalty of withholding of promotion and permanently debarring the petitioner from promotional avenues. Apart from this, certain recoveries were directed against petitioner.

4. Petitioner preferred statutory appeal under section 56(4) of the Maharashtra (Bombay) Provincial Municipal Corporation Act, 1949 and objected legality and correctness of the decision before the Standing Committee of the Municipal Corporation. The Standing Committee took up the matter of petitioner and exonerated him of the charges and further permitted him to retire on attaining age of superannuation with effect from 31.05.2009 since the petitioner completed age of 58 years. The Standing Committee also directed payment of pensionary benefits to the petitioner. Petitioner however was not paid pensionary benefits in terms of the directions of the Standing Committee and as such was required to approach this Court by presenting Writ Petition No. 4146/2014. The petition presented by petitioner came to be allowed by the Division Bench of this Court by virtue of order dated 08.05.2015 and it was directed to the Municipal Corporation to sanction and process the proposal of the petitioner for pension and pay him pecuniary benefits in the light of decision of the Standing Committee dated 18.08.2009 and ensure disbursement of the amount/benefits within a period of four months from the date of the order. In pursuance to the decision of this Court dated 08.05.2015, petitioner was paid benefits on 17.12.2015.

5. Petitioner in this petition makes a grievance that he has not been paid interest in terms of the policy adopted by the Government on 22.11.1994 and corrigendum issued on 24.01.1996. Petitioner contends that he is entitled to claim interest on the delayed payment of pensionary benefits in terms of the Government Resolution. The amount of interest leviable is equivalent to the interest payable on the amount deposited towards Provident Fund. Entitlement of petitioner under the policy prescribed by the State Government in view of Government Resolution dated 22.11.1994 and corrigendum dated 24.01.1996 is not liable to be controverted. In terms of the order passed by this Court in Writ Petition no. 1244/2011 decided on 05.03.2013, the aforesaid policy is applicable to the employees of the Municipal Corporation. In view of the decision referred to above, petitioner shall have to be held entitled to receive amount of interest in accordance with the Government Policy referred to above. The rate of interest on Provident Fund prevailing as on today is around 8%. The Municipal Corporation shall compute the amount receivable by petitioner at 8% per annum payable from 18.09.2009 till 17.12.2015 and shall pay the same to petitioner, as expeditiously as possible, preferably within a period of four months from today and, it is accordingly directed.

6. Rule made absolute to the extent as specified above. No costs.

7. Pending civil application, if any, does not survive and stands disposed of.

K. K. SONAWANE
JUDGE

R.M.BORDE
JUDGE

dyb