

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**REVIEW PETITION (ST) NO. 19607 OF 2018
IN
WRIT PETITION NO. 5724 OF 2013**

Dr. Ashok D. Vadekar ...Petitioner
Versus
The Secretary to the
Government in the Public
Health Department and ors. ...Respondents

Mr. K.K. Malpathak for the Petitioner.
Mr. N.C. Walimbe, AGP for Respondent No.1/ State.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.
DATE : 23.07.2018.**

PC:

- 1] Heard learned counsel for the parties.
- 2] Admit. With the consent of and at the request of learned counsel for the parties, the review petition is taken up for final disposal forthwith.
- 3] The petitioner seeks review of the judgments and order dated 14.6.2018, only to the extent, it denies the review petitioner interest on arrears of pension for the period between 12.7.2007 and May 2009.

4] Mr. Malpathak, learned counsel for the review petitioner, submits that this court has in fact accepted the petitioner's contention that implementing authority has to make orders consistent with the orders made by the sanctioning authority. He points out that the sanctioning authority by its order dated 15.3.2011 had in fact allowed interest on the arrears of pension. He, therefore, submits that there is an inadvertent omission to allow such relief to the petitioner in the operative operation of the judgment and order dated 14.6.2018.

5] Mr. N.C. Walimbe, learned AGP for the Respondent – State, since there is no error apparent on the face of record, this review petition may be dismissed.

6] In paragraph 19 of the judgment and order dated 14.6.2018, this is what we had observed:

“19] The claim under the seventh head relates to encashment and this claim is also not pressed by the petitioner. Insofar as the implementation order dated 13.04.2011 is concerned, we agree with Mr. Malpathak that the implementing authority has to make orders consistent with the orders made by the sanctioning authority. Therefore, the order dated 13.04.2011, to the extent the same is inconsistent with the order 15.03.2011 warrants interference”.

7] From the order dated 15.3.2011, made by the sanctioned authority, it does transpire that the sanctioning authority had awarded interest at the General Provident Fund rate on the arrear of pension for the period between 12.7.2007 to May 2009. However, the implementing authority, in its order dated 13.4.2011 denied the same to the petitioner.

8] In view of our observations in paragraph 19 of the judgment and order dated 14.6.2018, it is clear that we had proposed to uphold the award of interest by sanctioning authority as reflected in its order dated 15.3.2011, however, in the operative portion at paragraph 20, there is no specific direction for payment of this interest. In paragraph 20 (c), we have already quashed the order dated 13.4.2011 made by the implementing authority and issued directions for issuance of fresh implementation order consistent with the order dated 15.3.2011. Such a direction will, in fact, take care of the grievance of the petitioner since, fresh implementation order will have to be consistent with the order dated 15.3.2011 issued by the State Government, no doubt, after taking into consideration the relief granted by

this court in terms of clauses (a) and (b) of paragraph 20 of the judgment and order dated 14.6.2018.

9] In any case, we clarify that the petitioner shall be entitled to interest on the arrears of pension for the period between 12.7.2007 and May 2009 at the rate of 9% per annum, since, this is stated to be the General Provident Fund interest rate at the relevant period.

10] The time for implementation of our directions is extended by a period of four weeks from today. Since, the petitioner is stated to be an aged person, the respondents to consider making payments directly into the pension account of the petitioner in accordance with rules and procedures as may be applicable.

11] The review petition is disposed of in the aforesaid terms. There shall, however, be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)