

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

910 WRIT PETITION NO.5241 OF 2018

ANANDRAO HUKARUJI SHAMKULE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Devdatt P. Palodkar, Advocate for the
Petitioner.

Mr. S. B. Pulkundwar, AGP for Respondents-State.

Mr. V. D. Patnurkar, Advocate for Respondent No.1

Mr. S. N. Pagare, Advocate for Respondent No.3.

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATED : 16th APRIL, 2019.

PER COURT:-

1. The petitioner claims to have retired on 31.07.2011. Mr. Palodkar, learned counsel for the petitioner submits that the retiral benefits nor the pension is paid to the petitioner as yet. Even, the pension proposal is not forwarded.

2. Mr. Pagare, learned counsel submits that the departmental enquiry was initiated against the petitioner. The punishment was imposed of reduction in rank. The Chairman of the institution has directed the Principal to recover Rs.62,00,000/- from the petitioner. The petitioner has misappropriated the amount from the amount of

scholarship dues to be payable to the students. It is for this purpose the pension proposal is not forwarded.

3. According to the learned counsel for the petitioner no departmental enquiry is initiated against the petitioner with regard to the alleged misappropriation. The petitioner has not misappropriated any amount.

4. We had asked Mr. Pagare, learned counsel for respondent-Institution as to whether any punishment has been imposed against the petitioner upon conclusion of departmental enquiry seeking recovery of the amount from the petitioner. Mr. Pagare, learned counsel submits that the punishment of reduction in rank was imposed upon the petitioner. The petitioner was reduced to the rank of Lecturer. Except the said punishment no other punishment has been imposed upon the petitioner.

5. If under the departmental enquiry no punishment has been imposed upon the petitioner seeking recovery from him, the respondent in such case could not have withheld pension proposal of the petitioner.

6. The petitioner has already retired upon attaining the age of superannuation on 31.07.2011. The pension proposal has to be prepared and completed six months prior to the retirement, the

gratuity amount is to be paid within three months of the retirement and the pension has to be released within a period of six months from the date of superannuation.

7. It is submitted that the provident fund amount has been paid to the petitioner on 26.03.2012.

8. The respondent no.3 shall within the period of six weeks from today forward the pension proposal of the petitioner to respondent no.4.

9. The respondent no.3 shall also pay other benefits to the petitioner such as benefit of leave encashment and gratuity. The delay it appears is at the behest of respondent nos.3 and 4. The respondent no.3 shall pay interest at the rate of 8% per annum (simple interest) on the delayed payment of retiral benefits and pension. The interest shall be paid for a period three years prior to filing of the petition.

(A. M. DHAVALA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE