

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7367 OF 2018

Nitin Motiram Bharambe

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. A.S. Deshmukh, Advocate for Petitioner

Mr. P.K. Lakhotiya, Assistant Government Pleader for
Respondent Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 3rd APRIL, 2019

ORAL ORDER:

1. The petitioner assails order of the Maharashtra Administrative Tribunal, Aurangabad, dismissing his Original Application for grant of interest for delayed payment.

2. Mr. Deshmukh, the learned Counsel for the petitioner submits that the petitioner was placed under suspension on 29.08.2012 and he was under suspension till 25th February, 2014. On 26th February, 2014, the petitioner was reinstated. However, for the period of 10 months thereafter, the petitioner was paid only subsistence allowance and full salary paid in January, 2015. Thereafter also, salary was not paid to the petitioner regularly. Some

part of amount was only paid to the petitioner. Petitioner thereafter, filed Original Application before the Tribunal bearing Original Application No. 617/2017. The learned Counsel submits that the petitioner has given a chart showing delayed payment to which the petitioner is entitled for the interest on delayed payment.

3. Mr. Lakhotiya, the learned Assistant Government Pleader submits that the delay caused in making payment of salary to the petitioner was not intentional one, but was due to administrative reason. The name of the petitioner was removed from Sevarth Pranali as he had attained the age of 58 years, but as per the Policy of the Government, the age of retirement is extended. Because of the same, the time was lost. So also, the respondent was directed to calculate the additional increment to which the petitioner was entitled. The petitioner was detached from his original place of posting, namely, the Ahmednagar and he was posted at Nandurbar and for said purpose, he was also removed from the Sevarth Pranali at Ahmednagar and for taking his name in Sevarth Pranali at Nandurbar, fresh documents were required to be prepared. The time was lost in that. The petitioner also failed to submit documents in time for preparing the bills. The petitioner also failed to submit documents showing that he has duly deducted TDS for the related year. According to the learned Assistant Government Pleader, the delay caused is not intentional one. For administrative reason, the

delay is caused. So, interest may not be saddled upon the respondents. The Tribunal has not committed any error.

4. There is no dispute that delay has been caused in payment of salary to the petitioner. The petitioner, it appears was under suspension from 29.08.2012 to 25.02.2014. On 26.02.2014, the petitioner was reinstated, but up to the end of December, 2014, the petitioner was paid subsistence allowance and not entire salary. The same was paid in January, 2015. Thereafter also, the petitioner was not paid the salary. Petitioner filed Original Application in August, 2017. During the pendency of the Original Application, the part payment was made to the petitioner towards the arrears of salary and regular salary also. The respondents have also submitted that the delay was on administrative ground i.e. increments to which the petitioner was entitled. It required time. It also requires to be considered that under order dated 14.03.2016, even period of suspension undergone by the petitioner was regularized for all purposes. The only reason for delay is administrative one. The fact remains that the petitioner was not at fault. The fact also remains that the petitioner is deprived of the enjoyment of the said amount.

5. In light of the above, we hold that the petitioner is entitled for the interest @ 8 % per annum on the delayed payment of the

salary. The said interest will be from the date, the petitioner is entitled to the salary and the date it is paid. The Accounts Department of the respondents shall calculate the said delayed period accordingly and for the said delayed period petitioner is held entitled for interest @ 8 % per annum which the respondent shall pay within a period of six months.

6. The learned Counsel for the petitioner submits that it does not press for costs.

7. The Writ Petition is accordingly disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

mta