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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8474 OF 2014

Chudaman Gopal Patil
Age – 73 years, Occ – Pensioner
R/o Mahajan Galli, Yawal,
Taluka – Yawal, District – Jalgaon

PETITIONER

VERSUS

1. The State of Maharashtra
Department of Education,
Mantralaya, Mumbai
2. Director of Education,
Aurangabad Division, Aurangabad
3. Divisional Deputy Director of Education,
Latur, District – Latur
4. The Education Officer, (Secondary)
Zilla Parishad, Nanded, District – Nanded
5. Accountant General, Maharashtra
(Accounts and Entitlement-II)
Nagpur 440 001

RESPONDENTS

.....
Mr. G. S. Rane, Advocate for the petitioner
Mr. A. V. Deshmukh, AGP for respondent - State
.....

[CORAM : SUNIL P. DESHMUKH AND
B. U. DEBADWAR, J.J.]

DATE : 22nd JANUARY, 2020

ORAL JUDGMENT (PER SUNIL P. DESHMUKH, J.) :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.

2. This petition has been moved by the petitioner seeking interest @ 12 % p. a. from 2000 till date on difference of amount of gratuity of ₹17,785/- and difference of amount of pension of ₹1,26,340/- having been belatedly paid.

3. After hearing learned advocates, it emerges that petitioner had been employed as assistant teacher, since 1971 in Hutatma Pansare High School, Dharmabad, District – Nanded. He continued to work there till his retirement on 28th February, 1999. It appears that a few days before his retirement, petitioner sought benefit of service prior to 1971 rendered at different places and sought condonation of breaks in service.

4. Under order dated 4th August, 1999 breaks in service were condoned. Pursuant to the same, on 14th March, 2000 a revised pension proposal of the petitioner had been submitted to respondent No. 4 – Education Officer (Secondary), Zilla Parishad, Nanded. However, the revised pension proposal had not been further forwarded immediately to respondent No. 5 and was forwarded only in June, 2003. It is contended that during this period from 2000 to 2003, various communications for forwarding revised pension proposal had been made, leading to a matter before *Lokayukta*.

5. It appears that respondent No. 5 had raised a query with regard to petitioner's service in Gujrat and Maharashtra area. Upon such, query, revised proposal was recalled by respondent No. 3 purporting to cancel condonation of breaks in service. However, upon collection of material and necessary information, revised proposal had been resubmitted purportingly condoning breaks in service.

6. Matter further lingered on upon an incomplete proposal being forwarded and finally respondent No. 5 had sanctioned revised pension proposal on 22nd June, 2009.

7. In the circumstances, petitioner had requested to pay interest over delayed payment to petitioner, of difference in gratuity and pension. Same had been declined and, thus, petitioner is before this court in present writ petition.

8. Learned AGP submits that as a matter of fact, having regard to concerned rules, such a request for condonation of breaks in service ought to have been made earlier, preferably within a period of two years next before date of retirement. Yet, such a belated request had been duly processed, pension proposal had been revised and accordingly submitted. He submits that respondent No. 5 had raised certain query and it

took little longer time in satisfying the query and, thus, time has been consumed in the same and delay accordingly stands accounted for.

9. It appears that Rule 129A and 129B of the Maharashtra Civil Services (Pension) Rules, 1982 would play a pivotal role in the matter. Rule 129A entails payment of interest over a period of delay of gratuity beyond three months if the same is attributable to administrative lapses and Rule 129B indicates that no interest is payable if delay in payment of pension is attributable to failure on the part of government servant to complete the procedure laid down in the Chapter.

10. Going by undisputed events, lapses can hardly be said to be attributable to petitioner. No such case has been pleaded by the respondents. In the circumstances, by operation of rules, interest pursuant to said rules will have to be paid to the petitioner.

11. Having regard to aforesaid, petitioner be paid interest in accordance with rules 129A and 129B of the Maharashtra Civil Services (Pension) Rules, 1982 over delayed payment of difference of revised amount of gratuity and delayed payment of difference of revised pension from the date of initial submission

of revised pension proposal, at the rates as have been referred in said rules. We, expect that the interest would be paid to the petitioner as expeditiously as possible, preferably within a period of six months from the date of receipt of writ of this order.

12. Writ petition is, thus, allowed and disposed of in aforesaid terms. Rule is made absolute accordingly.

[B. U. DEBADWAR]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE