

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5166 OF 2018

Satish S/o Rajdhar Patil,
Age : 55 years, Occu. Nil,
R/o : Ghursardi, Post Takli,
Tq. Pachora, District Jalgaon.

... PETITIONER

VERSUS

1. Union of India.
2. Major (Senior Record Officer),
Sena Ayudh Corps,
Abhilekh Karyalaya,
Army Ordinance, Corps Records,
(Pension Section), Post Box No. 3,
Trimulgeery, Secundarabad.

... RESPONDENTS

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Mr. L.V. Sangeet, Advocate for the petitioner
Mr. B.B. Kulkarni, Standing Counsel for respondents

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**CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.**

DATE : 3rd JANUARY, 2022

ORAL JUDGMENT : (PER : S.V. Gangapurwala, J.)

1. **Rule.** Rule made returnable forthwith. With consent of parties the matter is taken up for final hearing at the admission stage.
2. The petitioner seeks interest @ 12% p.a. on the delayed payment of disability pension.
3. Mr. Sangeet, learned counsel for the petitioner strenuously contends that the petitioner joined the services with respondents in the

year 1985. The petitioner was discharged from the duty on 23-01-1990 on medical ground. The petitioner was not paid disability pension. The claim of the petitioner for disability pension was rejected. The petitioner filed Writ Petition No. 2425 of 2000. The said Writ Petition was allowed by the Division Bench of this Court under Judgment and order dated 08-10-2014, thereby the order of rejecting the claim of the petitioner for disability pension was set aside. It was held that petitioner was entitled for the benefit of disability pension and other consequential benefits. The respondents were directed to pay the same. According to the learned Advocate, though the said order was passed in October 2014, the amount of pension was deposited in the account of the petitioner only in the month of December, 2017. The learned Advocate for the petitioner submits that petitioner was entitled to disability pension at least from the month of April 1990. The Rules applicable mandate that the respondents shall make payment of pension within three months. The petitioner was discharged from the duties on 23-01-1990. It means the amount at least ought to have been paid by the Department in April, 1990. The respondent did not pay the said amount, eventually, petitioner had approached this Court. The petitioner is entitled for interest on delayed payment of pension from May, 1990 till the month of December, 2017. Mr. Sangeet, learned counsel for petitioner relies on the Judgment of the Apex Court in the case of *K.J.S. Buttar Versus Union of India and another* reported in (2011) 11 SCC 429.

4. Mr. Kulkarni, learned counsel for the respondents submits that the petitioner is not entitled for interest on delayed payment of pension. It is *bonafide* belief of the respondents that the petitioner is not entitled for disability pension. The petitioner after lapse of ten years approached this Court by filing the Writ Petition. According to learned counsel, this Court had directed the payment of pension on the ground that the Medical Board had arrived at un-reasoned conclusion and the Court by taking liberal approach allowed the petition and directed the respondents to make the payment of disability pension. After the order was passed by this Court, some delay was caused because of administrative reasons. The learned counsel submits that in similar matters, the Apex Court has denied to grant interest on the delayed payment, he relies on the *order dated May, 20, 2015 in the case of Union of India and others Versus Subhash Chander Soni in Civil Appeal 4677 of 2014*.

5. We have considered the submissions canvassed by the learned Advocate for the parties. The factual matrix as narrated above that the petitioner was in employment of respondents from 1985 and discharged from the duty w.e.f. 23-01-1990, is not disputed. The petitioner was not paid disability pension. The petitioner filed Writ Petition No. 2425 of 2000 after slumber of ten years. The delay in filing the Writ Petition was because of departmental appeal filed by the petitioner. The appeal was

dismissed. This Court under Judgment and order dated 08-10-2014 partly allowed the Writ Petition directing the respondents therein to make payment of disability pension to the petitioner. Though the order was passed by this Court in the month of October, 2014, the amount of pension was deposited in the account of the petitioner in December, 2017.

6. The petitioner was denied disability pension. The petitioner suffered head as well as chest pain at Jalandhar and he was admitted in the Hospital for about 5 to 6 months. On 23-01-1990 the petitioner was discharged from his duty and sent back to home by the Army Officer. On 18-10-1991 the claim of the petitioner for disability pension was rejected on the ground that disability is not attributable to military service or that it is not established that the disability is attributed to and aggravated due to service.

7. This Court while partly allowing the Writ Petition under the Judgment and order dated 08-10-2014 set aside the order of rejecting claim of the petitioner for disability pension and directed the respondents to make payment towards disability pension as may be due and payable to the petitioner with all consequential benefits. While directing respondents to pay amount, the Division Bench of this Court in said order dated 08-10-2014 in Writ Petition No. 2425 of 2000 has not directed payment of interest nor at that time the petitioner claimed the

relief of interest. The said judgment is accepted by the petitioner and respondents. Both the parties have submitted the said judgment. In view of that, it would not be possible to accept the contention of the petitioner that he is entitled for the interest on the delayed payment since the year 1990. The judgment delivered by the Division Bench of this Court in Writ Petition No. 2425 of 200 has become final and binding on both the parties.

8. However, it also needs to be considered that after judgment is delivered on 08-10-2014, directing the respondents to make the payment of disability pension and other consequential benefits to the petitioner, the said pension amount was not paid almost for three years. No rational explanation is coming forth for non-payment of pension amount for a period of almost three years after order passed by this Court. There is no reason for the respondents in not processing the papers immediately, after the order passed by this Court. The Apex Court in the case of *Union of India and others Versus Subhash Chander Soni (Supra)* does not lay down any proposition of law about payment or non-payment of interest on the delayed payment of pensionary benefits. In the case of *K.J.S. Buttar (supra)* relied upon by the petitioner, the Apex Court directed payment of disability pension with interest @ 8% p.a. in the facts of said case.

9. There may be instance of the delay, may be caused on account of employees not co-operating in process of pension benefits, in such a case

person would not be entitled to interest. However, the same is not the fact in the present case. At least after passing of the judgment and order by this Court, the respondents ought to have made payment towards disability pension within a reasonable time. As per the rules the respondents are required to pay the pension amount within a period of three months from the date of superannuation or discharged from the duty or from the date of entitlement. Considering the judgment delivered by this Court on 08-10-2014, respondents ought to have paid the amount of disability pension by the end of December, 2014.

10. As no plausible explanation has been given by the respondents for not making payment for a period of three years, we direct the respondents to pay the interest @ 8% p.a. for a period of three years on the amount of disability pension paid to the petitioner. Said payment shall be made within a period of four (04) months from the date of this order. The Writ Petition is partly allowed. Rule is made absolute in above terms. No costs.

(S.G. DIGE)
JUDGE

(S.V. GANGAPURWALA)
JUDGE