

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 2475/2021

(THE EXECUTIVE ENGINEER, IRRIGATION PROJECT INVESTIGATION DIVISION, CHANDRAPUR
VERSUS DATTATRAYA NARAYAN NIRMAL & ANOTHER)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Smt. U.A. Patil, counsel for the petitioners.
Shri Bharat Kulkarni, counsel for the R-1.
Shri A.M. Deshpande, Additional Government Pleader for the R-2.

CORAM : A. S. CHANDURKAR AND SMT. M.S. JAWALKAR, JJ.

DATE : APRIL 05, 2022.

Heard.

The challenge raised in this writ petition is to the order dated 03.03.2020 passed in Original Application No.871 of 2019. By that order, the original application preferred by the respondent no.1 seeking interest on delayed payment of retiral benefits came to be allowed. The petitioners were directed to release the amount of pension within a period of three months and also to pay interest for the period of delay as per Rules 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982 (for short, 'the Rules of 1982'). The order passed on 04.01.2021 rejecting the review application filed by the petitioners is also under challenge.

It is submitted by the learned counsel for the petitioner that the Tribunal erred in directing payment of amount towards pensionary benefits with interest as per Rules 129-A and 129-B of the Rules of 1982. There was no administrative lapse on the part of the petitioners and the matter with regard to correct pay-fixation consumed time which resulted in delay in releasing the amount of pensionary benefits. In the interregnum, the services of the respondent no.1 came to be transferred from Irrigation Project Circle Office, Chandrapur to Gadchiroli Irrigation Division. This also resulted in delay while taking steps for the service book to be corrected as per audit objection. The respondent no.1 retired on 31.12.2018 and by taking appropriate steps the pension was sought to be released. The Tribunal therefore erred in directing payment of interest.

The learned counsel for the respondent no.1 supported the impugned order. According to him, the respondent no.1 was not responsible for the delay in release of pensionary benefits. Despite retiring on 31.12.2018 the respondent no.1 was paid the pensionary benefits after a period of almost two years. The provisions of Rule 129-A and 129-B were clearly attracted. Moreover, there was no reply filed by the petitioners before the Tribunal to oppose the prayers made in the original application.

After hearing the learned counsel for the parties, we find that the respondent no.1 retired on attaining the age of superannuation on 31.12.2018. Since his pensionary benefits were not released, he filed the original application seeking the same alongwith interest. Despite opportunities, the petitioners did not seek to justify the delay in releasing the pensionary benefits. The Tribunal therefore on 03.03.2020 found that the respondent no.1 was not responsible for any delay and it was for the petitioners to have taken appropriate steps six months prior to his superannuation for preparing the pension case of the respondent no.1. Though the application for review was filed by the petitioners, no steps were taken to place on record the reply indicating the justification for the period required in releasing the pensionary benefits. The review application therefore was dismissed. We find that the Tribunal did not commit any error in allowing the original application. The reasons sought to be put forth by the petitioners are attributable to the cause of delay at their end. The respondent no.1 cannot be faulted on any count. The provisions of Rules 129-A and 129-B are clear as they saddle the liability to pay interest on delayed payment of pensionary benefits on the employer for delay on its part. The Tribunal has accordingly granted the relief to the respondent no.1. We do not find any scope to interfere in writ jurisdiction.

The writ petition is therefore dismissed with no order as to costs.

(SMT. M.S. JAWALKAR, J.)

(A. S. CHANDURKAR, J.)

APTE

Signed By: Digitally signed
by ROHIT DATTATRAYA
APTE
Signing Date: 12.04.2022 18:22