

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

58 WRIT PETITION NO.5171 OF 2021

VITTHAL DHARU PAWAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE DIRECTOR AND OTHERS

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Advocate for Petitioners : Mr. U. R. Awate, h/f Mr. B. R. Kedar.

AGP for Respondent Nos.1 & 2 : Mr. V. M. Kagne.

Advocate for Respondent No.4 : Mr. Jiwan J. Patil.

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CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 02nd January, 2023.

Per Court:

1. The only issue involved in this petition is as regards the non-payment of the retiral benefits of the petitioners to the extent of the provident fund accumulations, gratuity, leave encashment, medical bills and difference of arrears of salaries as per the 6th Pay Commission Recommendations.

2. The learned advocate representing the Municipal Council submits, in the light of the affidavit filed on record, that the Government has to release the funds and from the said funds, the dues of the petitioners are to be cleared. They received two installments from the Government of Maharashtra. The dues of the petitioners to some extent have been paid. The last such payment was made in July,

2022. He concedes that the funds are awaited from the Government and the moment they are delivered, the dues of these petitioners would be cleared.

3. In similar circumstances, this Court has delivered an order on 13th November, 2013 in ***Writ Petition No.2259 of 2013 (Ashok s/o Pandharinath Bokan and others Vs. The State of Maharashtra and others)***. This Court has concluded in paragraph Nos.5 and 6, which read thus:-

“5 Learned Counsel appearing for Respondent-Municipal Council, on instructions, states that the amount due to the petitioners, as per the statements produced in the Court, would be disbursed to them, as expeditiously as possible, preferably within six months from today.

6 The statement made on behalf of Respondent No.4-Municipal Council is accepted and Respondent No.4 is directed to disburse the amount, as specified in the statements tendered in the Court today, to the respective petitioners, within a period of six months from today. Petitioners are also entitled to claim interest from the date on which the amount was due i.e. period beyond six months, as specified under Rule 129B of Maharashtra Civil Services (Pension) Rules, 1982. The amount of interest shall be calculated from the date on which the amount became due till the date of payment, at the rate applicable to General Provident Fund Deposits, at the relevant time.

The amount due shall be paid together with interest within the time stipulated above.”

4. Considering that the only issue is as regards the paucity of funds, in our view, this cannot be a ground for delaying or withholding payments of retiral monetary benefits of the petitioners. Delay in such payments entails admissible rate of interest as is prescribed by law.

5. In view of the above, this petition is disposed off with the following directions:-

- a) Respondent Nos.3 and 4 shall forward a request to the State Government within two weeks from today, seeking a release of the funds for the purpose of paying the retiral benefits to the petitioners and all similarly situated employees, who have not preferred any petition in the High Court.
- b) The Government would release the said funds in three installments. The first installment would be delivered to the Municipal Council, on or before 28th February, 2023; the second installment would be delivered, on or before 30th April, 2023; and the last installment would be delivered, on or before 30th June, 2023.

- c) The above stated amounts, which would be demanded by respondent Nos.3 and 4, would include the admissible rate of interest component to be paid to the petitioners to the extent of the unpaid retiral benefits.
- d) Within ten days of receiving of each of the installments, respondent Nos.3 and 4 would disburse the amounts to the petitioners and similarly situated employees, as a part of the first, second and third equated installments.

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[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]