

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

WRIT PETITION NO. 42 OF 2018

Hafizulla Khan S/o. Nurull Khan,
Aged about 73 years, Occu. : Retired,
R/o. Shiloda Road, Shadab Nagar,
Mahlaxmi Colony, Near Three Micro
Tower, Akola, District : Akola.

..... **Petitioner**

...Versus...

- (1) The State of Maharashtra,
through its Secretary,
Department of Higher &
Technical Education,
Mantralaya, Mumbai-32.
- (2) The Director (Training),
Directorate of Vocational Education &
Training, Maharashtra State,
3, Mahapali Marg, Post Box No. 10036,
Mumbai.
- (3) The Deputy Director,
Vocational Education & Training,
Regional Office, Morshi Road,
Amravati.
- (4) The Principal,
Industrial Training Institute,
Patur, District : Akola.

..... **Respondents**

Mr. A. B. Mirza, Advocate for the petitioner
Mr. N. S. Rao, A.G.P. for the respondents

CORAM : ROHIT B. DEO AND M. W. CHANDWANI, JJ.

DATE : 17-07-2023

ORAL JUDGMENT : (PER ROHIT B. DEO, J.)

Rule. Rule made returnable forthwith. With consent, petition is heard finally.

2. The petitioner is aggrieved by the order dated 14-12-2016 rendered by the Maharashtra Administrative Tribunal (MAT), Nagpur Bench, Nagpur in Original Application (O.A.) 67/2016 to the limited extent that the interest on arrears of pension is allowed only from 17-8-2013, and not from the date of the superannuation, which is 31-10-2000.

3. The MAT has considered the issue thus :-

“4. The applicant is retired on 31/10/2000. His terminal benefits were paid accordingly. The applicant has agitated for revised pay scale and made several representation (page 49 to 52) from 2001. Some employees have also filed O.A. No. 67/2008 before the Mumbai Bench of this Tribunal. After the decision in the said O.A. the Govt. issued the communication dtd. 17/8/2013 (Annex-R-X1, page-43) for re-fixation of the pay scale. After this letter, the respondents should have taken the prompt steps and released the enhanced payment that was already delayed which is obvious from the chart filed at page no. 49. The payments are made somewhere in 2014 and 2015. Thus, there is a delay in the payment of these amounts.

5. *The respondents' stand is that the re-fixation was to be done and therefore official correspondence took place late. However, that cannot be excused. Anyhow fact remains that despite of the order of the Mumbai Bench and the communication of the Govt. dtd. 17/8/2013, the payment is delayed and the delay is attributable to the respondents only.*

6. *The applicant claims interest from the date of retirement. However, applicant's claim of arrears is based on the re-fixation. It is not the case of the applicant that deliberately he was deprived of benefit of such re-fixation. Sometimes mistakes are committed. No doubt the applicant was agitating the matter by making representations. However, it is not clear that he had made out the case and despite of this, the respondents have not done the re-fixation. The matter was completely decided in the O.A. and thereafter the orders are issued. As such the applicant cannot claim interest from the date of his retirement but he can be entitled from the date of order of re-fixation by the Tribunal. That date is not available. No doubt it is manifest that the Govt. issued the letter dtd. 17/8/2013 and thereafter also the payment is delayed. Hence the applicant is entitled for the interest @ 8% p.a. on this delayed payment from 17/8/2013 till the actual payment of the amount of re-fixation under each head. In effect the O.A. is disposed of in the following terms :- The O.A. is partly allowed.*

- a) The applicant be paid interest @ 8% p.a. from 17/8/2013 till the payment of actual amount under each head on each count on the enhanced amount after re-fixation.*
- b) The order be complied with before 31/3/2017.*
- c) No order as to costs."*

4. We are not inclined to align with the view that interest which is payable under Section 129-B of the Maharashtra Civil Services (Pension) Rules, 1982 can be denied on the assumption that “sometimes mistakes are committed”. It is not even the case of the State that the petitioner was in any way responsible for the mistake in fixation of the pay structure.

5. In this view of the matter, we modify the order impugned and direct that the interest payable under Section 129-B of the Maharashtra Civil Services (Pension) Rules shall be paid to the petitioner from the date of the retirement i.e. 31-10-2000 till actual realization.

6. The petition is allowed in the aforestated terms and disposed of.

(M. W. Chandwani, J.)

(Rohit B. Deo, J.)

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