



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

916 WRIT PETITION NO. 8289 OF 2024

PANDIT HANSRAJ NAIK

....Petitioner

VERSUS

THE STATE OF MAHARASHTRA THROUGH PRINCIPAL SECRETARY
AND OTHERS

.....Respondents

.....

Mr. Kiran M. Nagarkar, Advocate for the Petitioner

Mr. N. S. Tekale, AGP for Respondents State

Mr. Vinod P. Patil, Advocate for Respondents 2 to 9

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRADE, JJ.

DATE : 14th August, 2024

ORDER:

1. Rule. Rule made returnable forthwith and heard finally by the consent of parties.

2. The Petitioner has put forthwith prayer clauses 'B', 'C' and 'D' as under:

"B. To quash and set aside the impugned gratuity payment order dated 28.7.2020 issued by Respondent No.8 and thereby recovered the amount of Rs. 87,534/- from in view of the facts and circumstances mentioned in the writ petition and in the interest of justice.

C. To pay 18% interest amount against delayed period on the following heads i.e. Final Pension Payment, Nigdit Bachatgat Bachat Vima,, Commutation payment, Final pension payment

order and other heads in view of the facts and circumstances mentioned in the writ petition and in the interest of justice.

D. To direct respondent Nos. 1 & 2 to inquire into the delayed payment of pensionary benefits of the petitioner and to take appropriate action against the concerned persons who are responsible for delayed payment of the petitioner and impose cost of Rs. 50,000/- to the concerned persons and said cost to pay to the petitioner from the pockets of concerned persons in the interest of justice."

3. The Petitioner is aggrieved that the employer/ Respondent No.8 has recovered an amount of Rs.87,534/- from the leave encashment amount of the Petitioner, by order dated 28.07.2020. The Petitioner superannuated on 31.07.2020. The employer issued a notice dated 22.11.2021, concluding that excess payment was made to the Petitioner.

4. The Petitioner was appointed as an Assistant Stores Keeper on 29.12.1984 and after completing 35 years and 7 months, he superannuated on 30.07.2020. By an order dated 28.07.2020, passed by the Respondent – Maharashtra Jeevan Pradhikaran, an amount Rs.87,534 /- has been recovered from the Petitioner on the ground that the Petitioner was inadvertently paid excess amount under the head of 'Leave Encashment'. The employer took an undertaking from the Petitioner on 20.12.2021, that if he has been paid in excess of the actual entitlement, the amount would be recovered from him.

5. The Petitioner has specifically averred in the pleadings that he is seeking interest on the unpaid amounts.

6. In view of the above, the law laid down by the Hon'ble Supreme Court in **State of Punjab & Ors Vs. Rafiq Masih (White Washer), 2015 (4) SCC 334** and **Syed Abdul Qadir vs. State of Bihar and others, 2009 (3) SCC 475**, the Petitioner's case is eligible for grant of refund of the amount.

7. In view of the above, **this Writ Petition is allowed.**

8. In so far as the delay caused in making payments, the employer Maharashtra Jeevan Pradhikaran shall calculate the exact delay caused under the various heads and shall be duty bound to calculate the statutory interest component to be paid to the Petitioner, as a part of the arrears. Let such arrears be paid to the Petitioner within a period of 60 days from today.

9. Rule is made absolute in the above terms. No order as to costs.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan