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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9223 OF 2023

Pradeep Purushottam Pimparkhede

.. Petitioner

Vs.

Addl. Chief Secretary, Home Department,
Mantralay, Mumbai & Ors.

.. Respondents

...

Mr. Pradeep P. Pimparkhede Petitioner in person.

Mr. N.K. Rajpurohit, AGP for Respondent-State.

...

**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ**

DATE ON WHICH ARGUMENTS WERE HEARD : 13th MARCH 2024.

DATE ON WHICH THE ORDER IS PASSED : 16th APRIL 2024.

PC. :

1. Heard. The petitioner seeks to raise a challenge to the order dated 25/11/2022 passed by the Maharashtra Administrative Tribunal in Original Application No.616 of 2022. By that order, the Original Application filed by the petitioner seeking interest on the difference of allowances paid to him after regularisation of the period of suspension as well as on account of belated payment under the Assured Career Progression Scheme-ACPS came to be partly allowed and a direction was issued to pay interest on the belated payment under the ACPS for the period from 21/05/2017 to 28/06/2017. No relief of grant of interest on the difference of subsistence allowances was paid. The petitioner filed a review application before the Tribunal and by the order dated 17/04/2023 the same came to be dismissed. These orders are the subject matter of

challenge in this writ petition.

2. Since the petitioner was appearing in-person, he was granted leave to file a written note of arguments. He has accordingly filed the same on 12/12/2023. It has been stated therein that during the course of service on the post of Assistant Public Prosecutor, he was placed under suspension on 28/11/2003 on account of registration of an offence against him. He was convicted by the Sessions Court on 22/10/2010 and was thereafter removed from service on 12/08/2011. The appeal preferred by the petitioner challenging his conviction came to be allowed by this Court on 22/11/2013 and the petitioner was acquitted in the proceedings. Prior thereto, the petitioner attained the age of superannuation on 13/09/2013. By an order dated 10/05/2016, the State Government regularized the period of suspension and treated that period as duty period for being entitled to pay and allowances as well as other service benefits. In accordance with Government Resolution dated 22/11/1994, the difference of pay and allowances came to be paid to the petitioner on 20/10/2016. According to the petitioner, he was entitled to receive interest on the belated payment of subsistence allowance as well as the amount under the ACPS. It is stated by the petitioner that though he was acquitted in the criminal appeal by the judgment dated 22/11/2013, considerable time was spent on the issue whether a Special Leave Petition should be filed against the said order or not. Despite a clear opinion against filing of the

Special Leave Petition, a decision in that regard was not taken immediately causing delay in the petitioner receiving the amounts due. Even the amount under the ACPS was not paid immediately and there was delay in making such payment. Placing reliance on the decisions in *Shakuntala Mehrishi, New Delhi Vs. New Delhi Municipal Committee and others (1990) 3 SCC 521*, *Som Prakash Rekhi Vs. Union of India & Another, (1981) 1 SCC 449*, *State of Maharashtra Vs. Keshav Ramchandra Pangare and Anr. Appeal (Crl.) No.1169 of 1999* it was submitted that there was no justification whatsoever for denying the relief sought by the petitioner.

3. The learned Assistant Government Pleader opposed aforesaid submissions and relied upon the reply as filed before the Tribunal. It was submitted that the petitioner received all benefits pursuant to the order dated 10/05/2016 and the Tribunal after considering the entire matter granted relief to the petitioner with regard to payment of interest on the amounts of ACPS for the period from 21/05/2017 to 28/06/2017. According to him, there was no provision under the Maharashtra Civil Services Rules to make any payment on account of delay in paying the amount under the ACPS. Since there was no illegality committed, the writ petition was liable to be dismissed.

After the proceedings were closed for passing orders, the petitioner in-person tendered copy of Government Resolution dated 22/11/1994

alongwith corrigendum dated 21/03/1995 as well as Circular dated 25/06/1992 seeking relief on that basis.

4. We have perused the written note of arguments submitted by the petitioner in-person as well as the reply filed by the respondents before the Tribunal. It is not in dispute that insofar as the amount of difference of pay and allowances during the period of suspension is concerned, the same was paid to the petitioner on 20/10/2016. The period of suspension came to be regularised by the order dated 10/05/2016. In terms of the Government Resolution dated 22/11/1994 that has been relied upon, such difference of pay and allowances is required to be paid within the period of six months from entitlement. In case of there being any delay in making such payment beyond six months, interest is liable to be paid. As the suspension period was regularised on 10/05/2016, the difference of pay and allowances was required to be paid within a period of six months from that date. The said period of six months would expire on 09/11/2016. However, prior to expiry of that period, the petitioner received the aforesaid amount of difference on 20/10/2016. On this ground, no interest has been granted to the petitioner since the difference of pay and allowances was paid to him within a period of six months from 10/05/2016. We find that this view taken by the Tribunal is in accordance with Government Resolution dated 22/11/1994 which is also the basis for the petitioner to claim relief of payment of interest. Hence that part of the

order passed by the Tribunal does not call for any interference.

5. As regards the delay in making payment of the amounts under the ACPS, the order in that regard has been passed on 21/11/2016. Within a period of six months from that date, which period expired on 20/05/2017, he ought to have been paid that benefit. However, the petitioner received the amounts under the ACPS on 28/06/2017. In view of the fact that there has been delay of one month and seven days in making such payment, the Tribunal has rightly granted interest to the petitioner in accordance with Government Resolution dated 22/11/1994. We find that the Tribunal was justified in granting that relief to the petitioner which order has been accepted by the respondents.

6. According to the petitioner, since the respondents took considerable time in deciding whether to file a Special Leave Petition and challenge the order passed in Criminal Appeal No.103 of 2011 decided on 22/11/2013, there was delay in deciding the petitioner's entitlement. We however do not find any material on record to hold that there has been deliberate delay on the part of the respondents in deciding as to whether the judgment dated 22/11/2013 was liable to be challenged or not. The petitioner's entitlement has been decided on 20/10/2016 and the petitioner has accepted the said order. Once the said order is accepted, there can be no basis to hold that such entitlement ought to have been adjudicated prior to that date. The right to receive monetary benefit

accrued only on 10/05/2016 as regards regularisation of the period of suspension and on 21/11/2016 as regards benefit under the ACPS.

7. We therefore find that the Tribunal has granted the petitioner partial relief to which he has been found entitled. After perusing the decisions on which the petitioner has sought to place reliance, we do not find that there is any reason to modify the order passed by the Tribunal and grant further relief to the petitioner.

8. For aforesaid reasons, we do not find any case made out to interfere in exercise of writ jurisdiction. The writ petition stands dismissed with no order as to costs.

[JITENDRA JAIN, J]

[A.S. CHANDURKAR, J.]