

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8398 OF 2004

Shri Laxman D. Nagpure .. Petitioner

Versus

State of Maharashtra & Ors. .. Respondents

Mr.S.R.Rairkar for petitioner

Mrs.J.S.Pawar, A.G.P. for respondents.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, JJ.

DATE : 29TH OCTOBER 2004.

P.C.

1. Heard Advocates.

2. Petitioner challenges an order passed by Maharashtra Administrative Tribunal, Mumbai in O.A. No.610 of 2003. By the order passed on 22nd June 2004, the learned Chairman of MAT has

disposed of the O.A. as infructuous.

3. It is not necessary to make a detailed reference to the facts as petitioner's grievance in so far as pay fixation is concerned has been redressed completely by office order dated 23rd March 2004. By this order, after fixing pay, the differential amount has been paid to the petitioner who has retired from service. Therefore, the learned Chairman has disposed of the O.A.as infructuous.

4. The contention of the learned Counsel appearing for petitioner is that the Tribunal erred in not granting interest on delayed payment. He submits that the Government has issued specific orders providing for payment of interest when payment of terminal benefits have been delayed. He submits that the Government orders/ circular cover the case of petitioner as well. Therefore, the tribunal was in error in disposing of the O.A. as infructuous.

5. Shri Rairkar submits that consequent upon the order dated 23rd March 2004, calculation with

regard to last drawn salary has undergone a change. Petitioner became entitled to receive various amount under different heads such as gratuity, commutation of pension etc. He submits that had there been no improper pay fixation on the part of respondents, petitioner would have received various amounts detailed in the statement annexed as Exh.N to the petition on the date of his superannuation itself i.e. on 31st Mach 2001. Payments have been made after considerable delay on the part of respondents. The administrative delay on the part of respondents entitles the petitioner to claim interest at 12% p.a. as provided in Government Resolutions dated 22nd November 1994, 24th April 1995, 28th December 1995 and 20th June 1996 as also M.C.S.(Pension) Rules.

6. Learned A.G.P. on the otherhand supports the impugned judgement and contends that the petitioner cannot claim interest for the alleged delay.

7. In our view, without deciding any larger issues, ends of justice would be met if the

tribunal's order is substituted with a direction to pay Rs.10,000/- as lumpsum amount for delay in fixing the pay and releasing the differential amount. The Tribunal ought to have put an end to the matter finally instead of disposing of the O.A. as infructuous. In the present case, amounts have been released during the pendency of O.A. The tribunal could have in these circumstances, directed payment of some lumpsum amount to meet the ends of justice. Therefore, without going into the issue of applicability of Government resolutions, the abovementioned direction to pay lumpsum amount would be a just and fair end to the litigation.

8. In the result, the respondents are directed to pay a sum of Rs.10,000/- to the petitioner within a period of six weeks.
