

(2017) 06 BOM CK 0182
In the Bombay High Court
Case No : 3463 of 2000

Gulabrao Narayanrao Chandurkar, (dead) through L.Rs., & Ors. APPELLANT

Vs

State of Maharashtra, Through its Secretary, Department of Information on Publicity, Mantralayta, Mumbai, & Anr. RESPONDENT

Date of Decision : 12-06-2017

Acts Referred:

[Payment of Gratuity Act, 1972](#), [Section 7\(3A\)](#) -
Maharashtra Civil Services (Pension) Rules, 1982, Rule 129B

Citation : (2017) 06 BOM CK 0182

Hon'ble Judges : R. K. Deshpande, Swapna Joshi

Bench : DIVISON BENCH

Advocate : J.S.Wankhede, D.G.Patil, V.P.Maldhure

Judgement

1. The Maharashtra Administrative Tribunal, Nagpur Bench, allowed Transfer Application No. 2 of 1998 (Writ Petition No. 3024 of 1990) on 22.06.1999, directing the respondents to fix final pension of the petitioner and to pay gratuity on his retirement on the post of driver. The Tribunal has, however, rejected the claim for interest. For denying the relief of interest, the reason recorded is that the petitioner raised a dispute and his claim was denied by the respondents from time to time and therefore, he was not entitled to interest.

2. The facts in brief are that the petitioner was working as driver in the services of the State Government with effect from 15.06.1959. He suffered major accident on 31.03.1982 and consequently being unable to perform the said job of driver, he was given posting as Messenger on 17.11.1982. The petitioner worked on the said post till he retired on 30.06.1987. Though his pay on the post of driver was protected, he was denied the fixation of pension and payment of gratuity on the post of driver. The petitioner was paid provisional pension. Therefore, he approached the Maharashtra Administrative Tribunal, Nagpur Bench.

3. The decision given by the Maharashtra Administrative Tribunal on 22.06.1999 has not been challenged by the respondents. We do not find any reason for not fixing the pension and payment of gratuity payable to the petitioner on the post of Driver. We also do not find any reason to pay the provisional pension instead of finalizing it. The order passed by the Maharashtra Administrative Tribunal has attained the finality. The petitioner could not have been blamed for denial of interest either on the final payment of gratuity or payment of pension as per the order passed by the Maharashtra Administrative Tribunal, Nagpur Bench.

4. The petitioner was entitled to interest on the amount of gratuity in terms of subsection (3A) of Section 7 of the Payment of Gratuity Act, 1972 and for interest on the pension as per the provisions of Rule 129B of the Maharashtra Civil Services (Pension) Rules, 1982, from the date on which the petitioner retired on 30.06.1987 till the final payment of the pension and on the unpaid amount of gratuity.

5. In view of above, the petition is allowed. The respondents are directed to pay the petitioner interest in terms of subsection (3A) of Section 7 of the Payment of Gratuity Act from the date of his retirement on the amount of gratuity ultimately paid to him as per the decision of the Maharashtra Administrative Tribunal, Nagpur Bench. The respondents are also further directed to pay to the petitioner interest as stipulated under Rule 129B of the Maharashtra Civil Services (Pension) Rules, 1982 on the unpaid amount from the date of retirement till the payment of the amount as per the decision of the Maharashtra Administrative Tribunal, Nagpur Bench. Rule is made absolute in these terms. No order as to cost.