

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 319 OF 2017

(Subject – Interest on Delayed Payment)

DISTRICT : PARBHANI

Shri Parsharam s/o Waloji Shinde,)
Age : 57 years, Occu. : Retired Govt.)
Servant as Medical Officer,)
R/o. "Shivneri", Municipal Council,)
Darga Road, Parbhani,)
Tq. & Dist. Parbhani.)

.. **APPLICANT**

V E R S U S

- 1) **The State of Maharashtra,**)
Through the Secretary,)
Public Health Department,)
Maharashtra State,)
Mantralaya, Mumbai-32.)
- 2) **The Director,**)
Health Department, Maharashtra)
State, St. George Hospital Campus,))
Mumbai.)
- 3) **The Deputy Director,**)
Health Department, Aurangabad)
Division, Aurangabad.)
- 4) **The District Leprosy &**)
Tuberculosis Officer,)
Parbhani, Dist. Parbhani.)

.. **RESPONDENTS**

APPEARANCE : Shri K.B. Bhise, Advocate holding for Shri K.G.
Salunke, Advocate for the Applicant.

: Shri M.P. Gude, Presenting Officer for
Respondents.

CORAM : **B.P. PATIL, VICE CHAIRMAN.**

RESERVED ON : **12.04.2019.**

PRONOUNCED ON : **11.06.2019.**

ORDER

1. By filing the present Original Application, the applicant has sought directions to the respondents to grant interest on the delayed payment of pension and pensionary benefits w.e.f. 31.05.2012.

2. The applicant has passed M.B.B.S. and M.D. in Chest. He was initially appointed as Medical Officer by the order dated 13.01.1987 as bonded candidate and his services were continued till he was selected and appointed through MPSC by the order dated 16.12.1994. On 01.11.2011, he has filed an application to the respondents seeking voluntary retirement on account of his personal difficulty and medical problems, as he has completed 24 years continuous service. The applicant has made an application under Rule 66(2) of the Maharashtra Civil Services (Pension) Rules, 1982. But the respondents had not taken decision on the application within a stipulated time and therefore, the applicant deemed to have been retired on 31.02.2012. As the respondents

had not taken decision on his application, the applicant was compelled to approach this Tribunal by filing O.A. No. 761/2013. The said O.A. came to be decided by this Tribunal on 13.10.2014 and the respondents were directed to take into account the period of service of the applicant i.e. from 13.01.1987 to 16.12.1994 for granting pension and pensionary benefits and they were directed to grant all the pensionary benefits and pension to the applicant within a period of three months from the date of order.

3. In spite of the order passed by this Tribunal in O.A. No. 761/2013, the respondents had not granted the pension and pensionary benefits to the applicant within a stipulated period and therefore, the applicant had moved several representations to the respondent authorities to release all the pensionary benefits to him, as per the directions given by this Tribunal. But no heed has been paid by the respondents to the said representations. The applicant has therefore, filed the Contempt Petition against the respondents in O.A. No. 761/2013. After filing C.P., the respondent authorities were pleased to release the pensionary benefits to the applicant step by step on different dates. The respondents had not paid the pensionary benefits to the applicant within a reasonable time and therefore, the applicant had moved

applications to the respondents on 23.09.2016 and 13.10.2016 and requested to give him interest on the delayed payment of pension and pensionary benefits. It is his contention that he has provided chart in respect of the amount of interest payable to him. It is his contention that the respondents had not considered his claim and therefore, he approached this Tribunal by filing the present Original Application and prayed to direct the respondents to grant interest on the delayed payment of pension and pensionary benefits w.e.f. 31.05.2012.

4. The respondents have not filed their affidavit in reply in spite of the ample opportunities given to them and therefore, the O.A. proceeded without affidavit in reply of the respondents.

5. I have heard Shri K.B. Bhise, learned Advocate holding for Shri K.G. Salunke, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

6. Admittedly, the applicant was initially appointed as Medical Officer as bonded candidate by the order dated 13.01.1987. He was continued in the service till he was selected and appointed through M.P.S.C. by the order dated 16.12.1994.

Admittedly, the applicant retired from the service on 31.02.2012 voluntarily. Admittedly, the applicant has filed O.A. No. 761/2013 in this Tribunal claiming pensionary benefits. The said O.A. was disposed of on 13.01.2014 and the respondents were directed to take into account the period of service of the applicant i.e. from 13.01.1987 to 16.12.1994 for granting pension and pensionary benefits and they were directed to grant all the pensionary benefits and pension to the applicant within a period of three months from the date of order. Admittedly, the respondents had not complied with the order passed by this Tribunal in O.A. No. 761/2013 within a stipulated time and therefore, the applicant had filed C.P. against the respondents before this Tribunal. During pendency of the said C.P., the respondents have released the pensionary benefits to the applicant and therefore, C.P. came to be disposed of.

7. Learned Advocate for the applicant has submitted that the applicant has filed an application dated 01.11.2011 seeking voluntary retirement on completion of 24 years of his continuous service in view of the provisions of Rule 66 (2) of the Maharashtra Civil Services (Pension) Rules, 1982. He has argued that as per the said Rules, if the Government fails to decide the application

made for voluntary retirement within a period of three months, then it should be held that the employee has been retired after three months. He has argued that the respondents had not taken decision on the application of the applicant and therefore, the applicant approached this Tribunal by filing O.A. No. 761/2013, which was disposed of on 13.10.2014. He has submitted that in view of the order passed by this Tribunal in O.A. No. 761/2013, the earlier period of service of the applicant has been considered for the purposes of pensionary benefits and the directions were issued to the respondent authorities to consider the past service of the applicant for grant of pension and pensionary benefits. He has submitted that in spite of the directions given by this Tribunal, the respondents had not granted pensionary benefits to the applicant and therefore, the applicant was compelled to file C.P. against the respondents. He has submitted that during the pendency of the C.P., the respondents have released the pensionary benefits to the applicant. He has submitted that the applicant had received pension and pensionary benefits in the year 2015 and 2016. He has argued that the delay of more than four years has been occurred in making payment of pension and pensionary benefits to the applicant and therefore, the applicant is entitled to get interest on the delayed payment of pension and

pensionary benefits in view of the provisions of Rule 129 (A) and 129 (B) of the Maharashtra Civil Services (Pension) Rules, 1982. Therefore, he has prayed to allow the present Original Application.

8. Learned Presenting Officer has submitted that initially the applicant was appointed as bonded candidate and he was appointed on regular basis by the order dated 16.12.1994. The service period of the applicant from 13.01.1987 to 16.12.1994 was not taken into consideration by the respondents and therefore, the applicant approached this Tribunal by filing O.A. No. 761/2013. After decision in the said O.A. No. 761/2013, the said period was considered as a period of service rendered by the applicant and thereafter, the pension proposal has been sent. He has submitted that after decision in O.A. No. 761/2013, the amount of Rs. 6,80,960/- has been paid to the applicant towards Leave Encashment on 27.11.2015. An amount of Rs. 85,740/- towards Group Insurance Scheme (G.I.S.) has been paid to the applicant on 01.12.2015. The amount of Rs. 80,051/- towards G.P.F. has been paid to the applicant on 29.12.2015. An amount of Rs. 5,09,750/- of D.C.R.G. has been sanctioned to the applicant on 02.01.2016. He has argued that an amount of Rs. 6,51,532/- was due from the applicant towards repayment of

house loan and interest thereof. An amount of Rs. 5,09,750/- on 02.01.2016 has been recovered towards outstanding loan and interest amount from the amount of D.C.R.G. and remaining amount of Rs. 1,41,782/- has been recovered from the arrears of pension. He has submitted that the arrears of 5th Pay Commission and 6th Pay Commission has been paid to the applicant in the tune of Rs. 98,768/- on 14.03.2016. He has argued that there was no administrative lapse or delay on the part of the respondents in making payment of pension and pensionary benefits to the applicant and therefore, the applicant is not entitled to get interest on the said amount.

9. Learned Presenting Officer has further submitted that in view of the provisions of Rule 129(A) of the Maharashtra Civil Services (Pension) Rules, 1982, the employee is entitled to get interest on the delayed payment of gratuity amount, if it was not paid within three months from the date of retirement. In view of the provisions of Rule 129(B) of the Maharashtra Civil Services (Pension) Rules, 1982, the employee is entitled to get interest on delayed payment of pension amount, if it was not paid within six months from the date of their retirement. He has argued that the dispute regarding service period of the applicant has finally been

resolved by this Tribunal in O.A. No. 761/2013 on 13.10.2014. Thereafter, pension papers of the applicant have been processed by the respondents and within reasonable period, pensionary benefits had been released to the applicant. Therefore, there was no delay on the part of the respondents and hence, they are not liable to pay the interest. Therefore, he has prayed to reject the present Original Application.

10. On perusal of the record, it reveals that the applicant initially rendered the service as Medical Officer as bonded candidate during the period from 13.01.1987 to 16.12.1994 i.e. till he was selected and appointed through M.P.S.C. The applicant took voluntary retirement by filing the application dated 01.11.2011. Since his application was not decided by the respondents, he had approached this Tribunal by filing O.A. No. 731/2013, which was disposed of by this Tribunal on 13.10.2014 by giving directions to the respondents to take into account the period of service of the applicant i.e. from 13.01.1987 to 16.12.1994 for granting pension and pensionary benefits and they were directed to grant all the pensionary benefits and pension to the applicant within a period of three months from the date of order. In view of the said decision, the earlier service rendered

by the applicant has been counted for the purpose of pensionary benefits. Thereafter, pension proposal has been prepared by the respondents in the year 2015 and it was sent to the Accountant General for sanction. After getting sanction/approval from the Accountant General, the pensionary benefits have been released to the applicant and the amount of Rs. 6,80,960/- towards leave encashment, Rs. 85,740/- towards G.I.S. had been sanctioned to the applicant in the month of November, 2015 and December 2015 respectively. The amount of G.P.F. in the tune of Rs. 80,051/- has been disbursed to the applicant on 29.12.2015. Gratuity (D.C.R.G.) amount has been granted to the applicant in the tune of Rs. 50,9750/- on 02.01.2016. There is no documentary evidence to show that when the pension has been sanctioned. The applicant has not produced the Pension Payment Order (PPO) in that regard.

11. On perusal of the record, it reveals that there was delay in payment of gratuity amount of Rs. 5,09,750/-. In view of the directions given by this Tribunal in O.A. No. 731/2013 by the order dated 13.10.2014, the respondents ought to have granted the gratuity amount to the applicant within a period of six months in view the provisions of Rule 129(A) of the Maharashtra Civil

Services (Pension) Rules, 1982. It means they ought to have granted the gratuity amount to the applicant on or before 13.04.2015, but they have granted the said amount to the applicant on 02.01.2016. There is delay of more than about 8 and half months in granting gratuity amount to the applicant. There were lapses on the part of the respondents in granting gratuity amount to the applicant and delay has been occurred due to administrative lapses on the part of the respondents. Therefore, the applicant is entitled to get interest @ 8.5% p.a. on the delayed payment of gratuity amount of Rs. 5,09,750/- for the period from 13.04.2015 to 02.01.2016 in view of the provisions of Rule 129(A) of the Maharashtra Civil Services (Pension) Rules, 1982.

12. So far as delay in making payment of pension amount to the applicant is concerned, the applicant has not produced the documents to show that there were administrative lapses on the part of the respondents in processing the pension papers. Therefore, the applicant is not entitled to get interest on the said amount. Likewise, the applicant is not entitled to get interest on the delayed payment of Leave Encashment, G.I.S. and G.P.F., as the Maharashtra Civil Services (Pension) Rules, 1982 does not

provide to grant interest on the said amounts. Therefore, the claim of the applicant in that regard deserves to be rejected.

13. In view of the discussions in the above paragraphs, the applicant is entitled to get interest on the delayed payment of gratuity amount of Rs. 5,09,750/- for the period from 13.04.2015 to 02.01.2016. Therefore, the Original Application deserves to be allowed partly.

14. In view of the discussions in the foregoing paragraphs, the Original Application is partly allowed. The respondents are directed to pay the interest to the applicant on the delayed payment of gratuity amount of Rs. 5,09,750/- @ 8.5% p.a. for the period from 13.04.2015 to 02.01.2016 within a period of three months from the date of this order. There shall be no order as to costs.

PLACE : AURANGABAD.
DATE : 11.06.2019.

(B.P. PATIL)
VICE CHAIRMAN

KPB S.B. O.A. No. 319 of 2017 BPP 2019 Interest of delayed payment.