

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 516 OF 2022**

**(Subject – Interest on Delayed Payment)**

**DISTRICT : BEED**

**Arun S/o Nivrutti Pujari,** )  
Age : 70 years, Occu. : Pensioner (Awal Karkoon))  
R/o : Someshwar Shikshak Colony, )  
Behind I.T.I. Beed. )  
.... **APPLICANT**

**V E R S U S**

**1. The State of Maharashtra,** )  
Through its Secretary, )  
Revenue and Forest Department, )  
Mantralaya, Mumbai-400 0032. )

**2. The District Collector,** )  
Collector Office, (Accounts Department), )  
Beed. )  
... **RESPONDENTS**

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**APPEARANCE** : Shri L.V. Sangit, Counsel for Applicant.

: Smt. M.S. Patni, Presenting Officer for  
respondent authorities.

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**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**DATE** : **18.12.2023.**

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**O R A L - O R D E R**

1. Heard Shri L.V. Sangit, learned counsel appearing for the applicant and Smt. M.S. Patni, learned Presenting Officer appearing for respondent authorities.

2. The applicant is seeking direction to the respondents to grant interest on the delayed payment of pensionary benefits.

3. Brief facts giving rise to the Original Application are as follows :-

(i) The applicant was in service in the office of respondent No. 2 as Clerk in Rehabilitation Department and retired on 31.12.2010 on superannuation. However, after retirement, Crime No. 77/2011 for the offences punishable u/s 468, 471, 420 r/w 34 of I.P.C. came to be registered against the present applicant with one Ganpat Dhondiram Yedke, the then Rehabilitation Officer in the office of respondent No. 2. By judgment and order in Regular Criminal Case No. 756/2011 on 22.03.2021, the Chief Judicial Magistrate, Beed has acquitted the present applicant and the said officer Ganpat Dhondiram Yedke. Copy of the said judgment and order is marked as Annexure A-1.

(ii) It is the case of the applicant that though the applicant stood retired on 31.12.2010, he was not paid the entire regular pension, as well as, amount of Provident Fund, Gratuity, Leave Encashment and additional salary of

in-charge post. The applicant has submitted applications dated 05.09.2012, 14.09.2012 and 06.10.2012 requesting therein to respondent No. 2 to grant him all pensionary benefits. By the communication dated 27.10.2012, the respondent No. 2 has informed that due to the registration of crime and in view of Rule 130 (A), (B) & (C) of the Maharashtra Civil Services (Pension) Rules, 1982 (In short "the Rules of 1982") the applicant is not entitled for the entire pensionary benefits till the final decision in the criminal matter. It is also informed to him that the provisional pension is sanctioned to him.

(iii) According to the applicant, after his acquittal in connection with the said criminal case, the applicant has received gratuity amount, Provident Fund amount along with interest and also received the Leave Encashment benefits. The applicant has also received the amount towards the salary of holding additional post. The applicant was granted temporary pension of Rs. 8,000/- from 01.01.2011 till 31.10.2021.

(iv) It is the further case of the applicant that the applicant has received all the pensionary benefits after the period of more than 10 years after his retirement. In view

of the provisions of Rule 129-A, as well as, 129-B of the Rules, 1982, the applicant is entitled for the interest on the delayed payment of gratuity and pension. The respondent authorities withheld the pension of the applicant in view of pending judicial proceeding and granted him provisional pension as per Rule 130 of the Rules, 1982. The applicant also relied upon the G.R. dated 24.04.1995 for grant of interest on gratuity amount. Though the applicant has submitted representations from December, 2021 till date, he has not received reply from the authorities. Hence, the present Original Application.

4. Learned counsel for the applicant submits that the applicant came to acquitted in connection with the R.C.C. No. 756/2011 for the offences punishable u/s 468, 471, 420 r/w 34 of I.P.C. In view of the same, the applicant is entitled for all the pensionary benefits along with interest on delayed payment. Learned counsel submits that the applicant stood retired on superannuation on 31.12.2010, the department has not initiated any enquiry against him and as such, there was no reason to withhold the benefits for such a long period of 10 years. Learned counsel submits that only after acquittal in the criminal case, the Principal Accountant General, Nagpur sanctioned the gratuity,

pension amount and other benefits. The applicant in fact is entitled for the same on the date of his retirement i.e. 31.12.2010.

5. Learned counsel for the applicant submits that in view of the specific provisions in Rule 129-A, as well as, 129-B, the applicant is entitled for the interest on the delayed payment of gratuity and pension. Further the applicant is also entitled for the interest on the delayed gratuity amount in view of the G.R. dated 25.04.1995 and G.R. dated 17.06.2008.

6. Learned counsel for the applicant submits that the applicant is retired person and crossed the age of 70 years and fighting for his legal rights. The Original Application thus deserves to be allowed and the respondents may be directed to grant the applicant interest on delayed payment of pensionary benefits @ 15% p.a.

7. Learned Presenting Officer submits that though the applicant retired on 31.12.2010 on superannuation, in view of pendency of R.C.C. No. 756/2011 before the Chief Judicial Magistrate, Beed, the applicant was not entitled for the entire pensionary benefits. Learned P.O. submits that after acquittal of

the applicant in connection with the said R.C.C. No. 756/2011, all the pensionary benefits were received by the applicant.

8. Learned Presenting Officer submits that in view of Rule 129-A and 129-B of the Rules, 1982, the Government employee is entitled for the interest on delayed payment of gratuity, where the delay was attributed due to administrative lapse. As per the provisions of Rule 130 of the Rules, 1982, in case where departmental or judicial proceedings are pending, no gratuity shall be paid to the Government servant until the conclusion of the proceedings and issue of final order thereon. Learned P.O. submits that provisions of G.R. dated 24.04.1995 are applicable in case of administrative lapse and not applicable in the present case.

9. The Maharashtra Civil Services (Pension) Rules, 1982 dealt with the issue of interest on delayed payment of gratuity. Rule 129-A speaks about the interest on the delayed payment of gratuity, whereas the Rule 129-B governs the interest on delayed payment of pension. Rule 129-A and Rule 129-B of the Rules, 1982 read as under :-

***“129A-Interest on delayed payment of gratuity.***

*(1) Where the payment of retirement gratuity or death gratuity, as the case may be, has been delayed beyond the period of three*

*months from the date retirement or death, and it is clearly established that the delay in payment was attributable to administrative lapse, an interest at rate applicable to General Provident Fund deposits shall be paid on the amount of gratuity, in respect of period beyond three months:*

*Provided that, no interest shall be payable if the delay in payment of such gratuity was attributable to the failure on the part of the Government servant to comply with the procedure laid down in this Chapter:*

*Provided further that no interest shall be payable in the case where a provisional gratuity is paid.*

- (2) Every case of delayed payment of retirement gratuity or death gratuity, as the case may be, shall suo motu, be considered by the concerned Administrative Department, and where the Department is satisfied that the delay in the payment of such gratuity was caused on account of administrative lapse, that Department shall sanction payment of interest after obtaining the admissibility report, in this behalf, from the Accountant General (Accounts and Entitlement), Maharashtra, Mumbai or Nagpur, as the case may be. The approval of the Finance Department for the payment of such interest shall not be necessary.*
- (3) In all cases, where interest has been paid on retirement gratuity or death gratuity, as the case may be, due to administrative lapse, the concerned Administrative Department shall fix the responsibility and take disciplinary action against the Government servant or servants concerned, including the concerned officer, who are found responsible for the delay in the payment of such gratuity and recover the amount of interest required to be paid from the Government servant or servants concerned including the concerned officer who are found responsible for the delay in the payment of such gratuity.]*
- (4) If a result Government's decision taken subsequent to the retirement of a Government servant, the amount of gratuity already paid on his retirement is enhanced on account of-*
- (a) grant of pay higher than the pay on which gratuity, already paid was determined, or*
- (b) liberalisation in the provisions of these rules from a date prior to the date of retirement of the Government servant concerned, no interest on the arrears of gratuity shall be paid.*

**129 B. Interest on delayed payment of Pension.**

- (1) *Where the payment of pension or family pension authorised after six months from the date when its payment became due, an interest at the rate applicable to General Provident Fund deposits shall be paid on the amount of pension, in respect of the period beyond six months:  
Provided that, no interest shall be payable if the delay in payment of pension was attributable to the failure on the part of the Government servant to comply with the procedure laid down in the Chapter:  
Provided further that no interest shall be payable for the period for which a provisional pension is paid. In case of Government servant to whom provisional pension is sanctioned an interest as provided shall be paid after a period of six months from the cessation of provisional pension till the final pension is authorised.*
- (2) *Every case of delayed pension or family pension, as the case may be, shall suo motu, be considered by the concerned Administrative Department, and where the Department is satisfied that the delay in the payment of such pension was caused on account of administrative lapse, that Department shall sanction payment of interest after obtaining the admissibility report in this behalf from the Accountant General (Accounts and Entitlement), Maharashtra, Mumbai or Nagpur, as the case may be. The approval of the Finance Department for the payment of such interest shall not be necessary.*
- (3) *In all cases, where interest has been authorized on pension or family pension, as the case may be, due to administrative lapse, the concerned Administrative Department shall fix the responsibility and take disciplinary action against the Government servant or servants concerned, including the concerned officer, who are found responsible for the delay in the payment of such pension and recover the amount of interest required to be paid from the Government servant or servants concerned including the concerned officer who are found responsible for the delay in the payment of such pension.]*
- (4) *If as a result of Government's decision taken subsequent to the retirement of a Government servant, the amount of pension already paid on his retirement is enhanced on account of-*



- (a) *grant of pay higher than the pay on which pension, already paid, was determined; or*
- (b) *liberalisation in the provisions of these rules from a date prior to the date of retirement of the Government servant concerned, no interest on the arrears of pension shall be paid.]”*

10. It appears from the plain reading of the aforesaid rules that if the said payment of retirement gratuity has been delayed beyond the period of three month lapsed from the date of retirement and it is clearly established that the delay in payment was attributed to the administrative lapse, an interest at the rate applicable to General Provident Fund deposits shall be paid on the amount of gratuity, in respect of period beyond there months. In terms of Rule 129-B, the payment of pension or family pension authorized after six months from the date when its payment became due, an interest at the rate applicable to General Provident Fund deposits shall be paid on the amount of pension, in respect of the period beyond six months. However, no interest is payable, if the delay in payment of pension was attributed to the failure on the part of the Government servant to comply with the procedure laid down in the Chapter. Further no interest shall be payable for the period for which a provisional pension is paid.

11. In the instant case, as admitted by the applicant in the Original Application itself, he was granted provisional pension from 01.01.2011 till 31.10.2021 and thereafter he got regular pension after his acquittal in connection with the said criminal case. The applicant has also received the gratuity amount by the order dated 22.10.2021 and also all other pensionary benefits such as Provident Fund amount, Leave Encashment, salary of holding additional post etc. after his acquittal in connection with the said criminal case.

12. In view of above, it is at most necessary to refer the provisions of Rule 130 of the Rules, 1982, which reads as under:-

***“130. Provisional pension where departmental or judicial proceedings may be pending.***

(1) (a) *In respect of a Gazetted or Non-gazetted Government servant referred to in subrule (4) of rule 27 the Head of Office shall authorise the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government servant, or if he was under suspension on the date of retirement upto the date immediately preceding the date on which he was placed under suspension.*

*(b) The provisional pension shall be authorised by the Head of Office for a period of six months during the period commencing from the date of retirement unless the period is extended by the Audit Officer and such provisional pension shall be continued upto and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.*

*(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.*

*[Provided that where departmental proceedings have been instituted under Rule 10 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979, for imposing any of the minor penalties specified in sub-clauses (i), (ii) and (iv) of clause (1) of Rule 5 of the said rules, the payment of gratuity shall be authorized to be paid to the Government servant].*

*(2) Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.”*

In terms of clause (b) of Rule 130 of the Rules, 1982, the provisional pension shall be authorized for a period of six months during the period commencing from the date of retirement and such provisional pension shall be continued upto and includes the date on which, after the conclusion of departmental or judicial proceedings, final orders passed by the competent authority, whereas, in terms of Clause (c) of the Rule 130(1), no gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon. In terms of Sub-rule (2) of Rule 130, payment of provisional pension made under sub-rule (1) shall be

adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings.

13. It appears from the above quoted rules that except the entitlement of delayed payment of gratuity and delayed payment of pension, no interest is admissible to the other pensionary benefits. In terms of clause (b) and (c) of Rule 130(1) of the Rules, 1982, regular pension, as well as, gratuity are payable to the Government servant only after the conclusion of the departmental or judicial proceedings and issue of final order thereof.

14. In the instant case, admittedly the applicant came to be acquitted in connection with the R.C.C. No. 756/2011 by the Chief Judicial Magistrate, Beed by the judgment and order dated 22.03.2021. As on the date of retirement the provisional pension was sanctioned to the applicant and it was continued till his regular pension was processed after the judgment and acquittal order passed by the Criminal Court in connection with the R.C.C. No. 756/2011. Similarly, the applicant has received gratuity amount by the order dated 22.10.2021.

15. In terms of Rule 129-A of the Rules, 1982, an interest is applicable only when the payment of retirement gratuity has

been delayed beyond the period of three months from the date of retirement and it is cleared established that the delay in payment was attributable to administrative lapse. In the instant case, the delay in payment of regular pension is not due to administrative lapse. In the instant case, the regular pension and gratuity was paid to the applicant in terms of the provisions of Rule 130(1) (b) & (c) and there is no delay in payment on account of administrative lapse. It is well settled that only after the conclusion of the departmental or judicial proceedings and issue of final order thereof, the competent authority authorizing the release of gratuity; it will be presumed that the gratuity is deemed to have been fallen due on the date immediately following date of retirement for the purpose of interest. It is thus clear that if disbursing the payment of gratuity a delay is caused not due to the administrative lapses but due to the pendency of disciplinary enquiry against an employee on the date of superannuation, then he is not entitled to claim interest on the delayed payment of gratuity (***Prabhakar s/o Marotirao Dalal Vs. State of Maharashtra and another, 2009(1) Mh LJ 209***).

16. In view of above, I find no substance in the present Original Application and the same is liable to be dismissed. In

the circumstances, however, no order as to costs. Hence, the following order :-

**ORDER**

- (i) Original Application No. 516/2022 is hereby dismissed. No order as to costs.
- (ii) The Original Application is accordingly disposed of.

**PLACE : Aurangabad.**  
**DATE : 18.12.2023**

**(Justice V.K. Jadhav)**  
**Member (J)**

**KPB S.B. O.A. No. 516 of 2022 VKJ Interest on delayed payment**