

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

**ORIGINAL APPLICATION NO. 520 OF 2020  
(Subject – Commutation of Pension)**

**DISTRICT : AURANGABAD**

**Mutazabaddin Abdul Waheb Shaikh,** )  
Age : 58 years, Occu. : Retired as A.P.I., )  
R/o. House No. 269, Mahada Colony, )  
Ramnagar, Jalna. )  
.... **APPLICANT**

**V E R S U S**

**1. The State of Maharashtra,** )  
Through : Secretary, )  
Home Department, Mantralaya, )  
Mumbai-32.)

**2. The Commissioner of Police,** )  
Aurangabad, Mill Corner, )  
Dr. Babasaheb Ambedkar Road, )  
Aurangabad.

**3. The Accountant General-II,** )  
Civil Line, Nagpur – 440001. )

**4. The Treasury Officer,** )  
Treasury Office, Jalna. )  
... **RESPONDENTS**

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**APPEARANCE** : Shri Kakasaheb B. Jadhav, Advocate for the  
Applicant.

: Smt. Sanjivani K. Deshmukh-Ghate,  
Presenting Officer for Respondents.

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**CORAM** : **SHRI V.D. DONGRE, MEMBER (J).**

**DATE** : **08.06.2022.**

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**ORDER**

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, the present Original Application is filed challenging the impugned letter / order dated 13.11.2020 (Annexure A-6) issued by the respondent No. 3 i.e. the Accountant General-II, Nagpur, thereby refusing to cancel the Commutation Payment Order dated 25.06.2020 of the applicant and further seeking direction against the respondent No. 2 to submit fresh proposal to the respondent No. 3 and the respondent No. 3 to consider the cancellation of Commutation Payment Order dated 25.06.2020.

2. The facts in brief giving rise to this application are as follows :-

(a) The applicant was initially appointed as Police Constable. He got various promotions. Lastly he was posted in the office of respondent No. 2 i.e. the Commissioner of Police, Aurangabad on the post of Assistant Police Inspector (API). He came to be retired on superannuation on 29.02.2020. In view of the same, the respondent No. 2 submitted the pension proposal of the applicant to the respondent No. 3. At that time, the applicant had orally

informed the office of respondent No. 2 that he did not want to take the commutation amount. However, the respondent No. 2 submitted the pension papers of the applicant to the respondent No. 3 with requisite Form-B. The respondent No. 3 sanctioned the pension case of the applicant by CPO and PPO dated 25.06.2020 (part of Annexure A-1 collectively) thereby sanctioning regular pension and amount of commuted value of pension to the applicant. Thereby the respondent No. 3 sanctioned the amount of Rs. 11,63,235/- towards the Commuted value of pension to the applicant.

(b) As the applicant did not want the commuted value of pension, he submitted application dated 20.07.2020 (Annexure A-2) to the respondent No. 2 requesting that he was not willing to receive the amount of commuted value of pension and requested to cancel the order of payment of commutation by informing to the respondent No. 3. He forwarded the said application to the respondent No. 3 i.e. the Accountant General-II, Nagpur, as well as, to the respondent No. 4 i.e. the Treasury Officer, Treasury Office, Jalna for information.

(c) In view of above, the respondent No. 2 submitted fresh proposal dated 23.07.2020 (Annexure A-3) for cancellation of commutation payment order and also submitted original P.P.O. to the respondent No. 3 with a request to sanction fresh PPO, but again allegedly committed mistake of submitting Form-A with the said proposal.

(d) In response to above-said application, the respondent No. 3 issued letter dated 09.09.2020 (Annexure A-4) to the respondent No. 2 demanding original copy of Commuted Pension Order with No Objection Certificate in order to consider the proposal.

(e) The respondent No. 2 thereafter again submitted proposal dated 25.09.2020 (Annexure A-5) to the respondent No. 3 for cancellation of Commuted Value of pension of the applicant along with application submitted by the applicant and original PPO.

(f) However, the respondent No. 3 by issuing the letter / order dated 13.11.2020 (Annexure A-6) addressed to the respondent No. 2 refused to cancel the order of payment of Commuted Value of Pension and returned the original PPO

contending that while submitting the proposal for cancellation of Commuted Payment Order, the respondent No. 2 submitted Form-A.

(g) In view of above, it is submitted that the impugned letter / order dated 13.11.2020 (Annexure A-6) is being issued by the respondent No. 3 due to mistake committed by the office of respondent No. 2. The employee of the office of respondent No. 2 obtained signature of the applicant on Form-A and submitted it to the office of respondent No. 3. In view of the same, the applicant again submitted application dated 26.11.2020 (Annexure A-7) requesting to submit fresh proposal. The said application is still pending and till today no action is taken by the respondent No. 2.

(h) In the circumstances as above, the applicant cannot be made to suffer due to mistake committed by the office of respondent No. 3. There is no fault on the part of the applicant. Hence, the present Original Application.

3. The affidavit in reply on behalf of respondent Nos. 1 and 2 is filed by one Shri Suresh Eknath Wankhede, working as Assistant Commissioner of Police, Traffic Aurangabad, Dist. Aurangabad, as well as, affidavit in reply is filed on behalf of

respondent No. 3 by one Shri S.P. Waikar, Asstt. Accounts Officer, working in the office of respondent No. 3. By both these affidavits in reply adverse contentions raised in the O.A. are denied. The sum and substance of the contentions raised on behalf of these respondents is that the Form-B signed by the applicant along with original pension papers by the respondent No. 2, as well as, Form-A signed by the applicant along with proposal dated 23.07.2020 (Annexure A-3) for modification of PPO cancelling the order of commuted value of pension and for issuance of fresh PPO were submitted to the respondent No. 3. The applicant was holding the post of API, which is quite responsible post and hence, the mistake cannot be attributed to the respondent No. 2, but it is attributable to the applicant only. Moreover, as per Rule 6 of the Maharashtra Civil Services (Commutation of Pension) Rules, 1984 the commutation of pension shall become absolute in the case of an applicant referred to in sub-rule (1) of Rule-13, on the date on which the application in Form-A is received by the Head of Office. In terms of Rule 8 (2) of the said Rules, a commutation once applied for and given effect to cannot be rescinded, i.e. the portion of a pension commuted cannot be restored on refund of its capitalized

value. In view of the same, according to these respondents, there is no merit in the O.A. and the same is liable to be dismissed.

4. Further affidavit in rejoinder and sur-rejoinder affidavit are filed by the parties denying each other's adverse contentions.

5. I have heard the arguments advanced at length by Shri K.B. Jadhav, learned Advocate for the applicant on one hand and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer on the other hand.

6. Considering the case of the applicant, it is evident that the applicant is seeking to withdraw the application in Form-B filed along with pension case papers whereby commutation of pension was claimed. It is the contention of the applicant that he had orally instructed the concerned employee of the respondent No. 2 that he did not want commutation of pension. But he was made to sign on the requisite Form-B, which was required to be filed along with pension papers in accordance with Rule 13(3)(b) of the Maharashtra Civil Services (Commutation of Pension) Rules, 1984.

7. After issuance of CPO and PPO dated 25.06.2020 (part of Annexure A-1 collectively) by the respondent No. 3, the applicant

submitted application dated 20.07.2020 (Annexure A-2) seeking modification in PPO, whereby he did not want to commute the pension. In response to that the respondent No. 2 submitted proposal dated 23.07.2020 (Annexure A-3), but with Form-A. Thereafter, the respondent No. 3 by letter dated 09.09.2020 (Annexure A-4) called upon the respondent No. 2 to submit original PPO so that appropriate action can be taken. The respondent No. 2 thereafter submitted proposal dated 25.09.2020 (Annexure A-5). However, by the impugned letter / order dated 13.11.2020 (Annexure A-6) modification in PPO withdrawing claim of commutation of pension was refused.

8. Considering the rival pleadings, the present matter revolves around the provisions of Rule 6(1) and Rule 8(2) of the Maharashtra Civil Services (Commutation of Pension) Rules, 1984. For the sake of convenience, the said provisions are reproduced herein below :-

***“6. Commutation of pension to become absolute.- (1) The commutation of pension shall become absolute in the case of an applicant referred to-***

***8. Calculation of commuted value of pension and its non-restoration.-***



(1).....

*(2) A commutation once applied for and given effect to cannot be rescinded, i.e. the portion of a pension commuted cannot be restored on refund of its capitalized value.”*

9. As per the scheme of commutation of pension, in view of Rule 13(3)(b) of the Maharashtra Civil Services (Commutation of Pension) Rules, 1984, Form-B is required to be filed along with pension papers before three months of the date of retirement. Commutation of pension in Form-A comes into picture during one year from the date of retirement in terms of Rule 13(1)(a) of the Maharashtra Civil Services (Commutation of Pension) Rules, 1984.

10. In this background, if the provisions of Rule 6(1) and Rule 8(2) are taken into consideration, it is seen that a commutation once applied for and given effect to cannot be rescinded as per the Rule 8(2) of the Maharashtra Civil Services (Commutation of Pension) Rules, 1984. Moreover, as per the Rule 6(1) of the said Rules, commutation of pension shall become absolute, when the commutation is asked during one year of the date of retirement. In view of that no discretion lies in the authorities, namely respondent No. 2 or respondent No. 3 to reconsider and to allow withdrawal of the application made for commutation of pension.

In view of the same, even if the respondent No. 3 in this case by the letter dated 09.09.2020 (Annexure A-4) asked the respondent No. 2 to submit the original PPO for consideration of modification of commutation of pension, it is beyond their authority.

11. Otherwise also initially Form-B and subsequently Form-A were signed by the applicant which deal with seeking commutation of pension before three months and within one year of the date of retirement respectively. The applicant was holding the post of API at the time of retirement. In view of the same, though the applicant is blaming the employee of the respondent No. 2 for the alleged lapses, he himself is responsible by signing the Forms B and A respectively. No any provision is pointed out by the learned Advocate for the applicant to hold that the Tribunal has jurisdiction to order modification in CPO, when the mandatory provisions of Rule 6(1) and Rule 8(2) of the Maharashtra Civil Services (Commutation of Pension) Rules, 1984 are there. In these circumstances, I do not find any merit in the contentions raised by the applicant. Hence, the applicant is not entitled for relief as claimed for. I, therefore, proceed to pass following order :-

**ORDER**

The Original Application No. 520/2020 stands dismissed with no order as to costs.

**PLACE : AURANGABAD.**  
**DATE : 08.06.2022.**

**(V.D. DONGRE)**  
**MEMBER (J)**

**KPB S.B. O.A. No. 520 of 2020 VDD Commutation of Pension**