

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

ORIGINAL APPLICATION NO. 91 OF 2020

(Subject – Interest on Delayed Payment)

DISTRICT : DHULE

Mr. Shyam S/o. Kapurchand Bhavsar,)

Age : 62 years, Occu. : Retried,)

R/o : Shri Chaitanya Bhavsar, A-301,)

Vivahhalmar, Bavdhan (BU), Pune.)

.... APPLICANT

V E R S U S

1. The State of Maharashtra,)
Through : Its Secretary,)
Water Resources Department,)
Mantralaya, Mumbai-32.)

2. The Accountant General (A&E-II),)
Civil Lines, Nagpur-440001.)

3. The Accountant General,)
Pratishtha Bhavan, Old GD Bldg., 101,)
Maharshi Karve Marg, Mumbai-400020.)

4. The Sub Divisional Officer,)
Hydrology Project Sub-Division, Dhule.)

5. The Executive Engineer,)
Hydrology Project Division, Amravati.)

... RESPONDENTS

APPEARANCE : Smt. Suchita Dhongde, Advocate for Applicant.

: Shri V.R. Bhumkar, P.O. for Respondents.

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

DATE : **15.03.2023.**

ORDER

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, the present Original Application is filed seeking interest on delayed payment @ 12% on G.P.F., GIS, Leave Encashment, Gratuity, Commuted Pension and regular monthly pension.

2. The facts in brief giving rise to this application can be stated as follows :-

(i) The applicant was initially appointment on the post of Junior Engineer on 01.09.1979. The applicant till his retirement on superannuation rendered blotless services with honesty. He retired on superannuation w.e.f. 30.06.2017 from the office of respondent No. 4 i.e. the Sub-Divisional Officer, Hydrology Project Sub Division, Dhule while on the post of Sub Divisional Officer as reflected in notice of retirement dated 27.06.2017 and relieving order dated 01.07.2017 (Annexure A-1 collectively). Before his retirement, the Assistant Superintending Engineer, Nashik sent NOC to the respondent No. 1 for the period of 2005 to 2017 from the concerned authorities/offices of the applicant under whom he worked from 2005.

(ii) After retirement from the office of respondent No. 4, the respondent No. 5 i.e. the Executive Engineer, Hydrology Project Division, Amravati sent pension proposal of the applicant dated 18.10.2017 (Annexure A-2) to the office of respondent No. 2 i.e. Accountant General-II, Nagpur. Pursuant to that the respondent No. 2 issued communication dated 30.10.2017 (Annexure A-3) to the applicant about receipt of his pension proposal and also sent file ID for all future correspondence. The respondent No. 2 acted upon the pension papers and sent calculated pension proposal dated 10.11.2017 (Annexure A-4) to the office of respondent No. 5 and consequently issued pension payment order (PPO) dated 07.12.2017 (Annexure A-5) to the office of respondent No. 3 i.e. the Accountant General, Mumbai. As per the said PPO, amounts of monthly pension of Rs. 19,155/- and commutation of pension Rs. 7,69,664/- were being granted to the applicant.

(iii) The respondent No. 5 thereafter issued order dated 08.12.2017 (Annexure A-6) whereby 3rd ACPS granted to the applicant was withdrawn and revised pay fixation was done, by which the pension and pensionary benefits were adversely affected. Pursuant to that the respondent No. 5

sent communication dated 11.12.2017 (Annexure A-7) to the respondent No. 2 for re-fixation of pension and seeking return of PPO and thereby submitted fresh pension proposal. Pursuant to that the respondent No. 2 sent communication dated 14.06.2018 (Annexure A-8) to the respondent No. 3 for generation of revised Pension payment order after cancellation of old one. Upon that the respondent No. 3 sent communication dated 06.08.2018 (Annexure A-9) to the Treasury Officer, Dhule seeking to return the earlier PPO and CPO in respect of the applicant calling upon them to submit nonpayment Certification for onward transmission to the office of respondent No. 2.

(iv) As the applicant did not receive the amounts of pension and pensionary benefits till then, he submitted representation dated 05.09.2018 (Annexure A-10) to the respondent No. 1 for releasing him the pension and pensionary benefits, thereby the applicant disclosed that he had received the amount of GIS, GPF and Leave Encashment respectively on 25.10.2017, 04.01.2018 and 17.07.2018 respectively. Thereby he also stated that he had received less amount towards GIS. Thereby he requested to

release the amount of pension, gratuity and commutation of pension.

(v) Meanwhile, the District Treasury Officer, Dhule sent communication dated 28.09.2018 (Annexure A-11) to the respondent No. 3 thereby returning the PPO and CPO with No Dues Certificate (NDC). Thereafter the Upper/ Additional Treasury Officer, Amravati sent letter dated 06.10.2018 (Annexure A-12) to the respondent No. 2 that the amount of Rs. 6,32,115/- has been received in the Treasury, but the same was not paid to the applicant and sent to the respondent No. 2 with Nonpayment Certificate. Thereafter, the respondent No. 3 i.e. the Accountant General, Mumbai sent communication dated 22.10.2018 (Annexure A-13) to the respondent No. 2 returning the original PPO and CPO in respect of the applicant with Non Payment Certification.

(vi) Thereafter the applicant submitted applications / representations dated 14.03.2019 & 10.04.2019 (Annexure A-14 collectively) to the respondent Nos. 1 and 3 respectively with a request for releasing residuary pensionary benefits amounts mentioning therein that he

has received gratuity amount of Rs. 5,92,515/- belatedly but mentioning that regular pension was not received and requested for the same.

(vii) Thereafter, the Additional Treasury Officer, Dhule sent communications dated 02.05.2019 and 01.10.2019 (Annexure A-15 collectively) to the respondent No. 3 giving remark of No Dues Certificate. In turn, the respondent No. 3 issued communication dated 16.10.2019 (Annexure A-16) in favour of the applicant granting reduced payment of commutation of pension amount. Thereafter, the respondent No. 3 issued Pension Payment Order dated 19.11.2019 (Annexure A-17).

(viii) Thereafter, the applicant submitted detailed application / representation dated 21.12.2019 (Annexure A-18) to the respondent No. 3 placing on record that he received pension and pensionary benefits belatedly and sought requisite interest on the said delayed payments.

(ix) However, the respondent No. 3 by communication dated 26.12.2019 (Annexure A-19) refused to pay interest amount stating that there was no administrative lapse in paying the pension and pensionary benefits.

(x) In the circumstances as above, it is the case of the applicant that due to administrative lapses the applicant has received the amount of pension and pensionary benefits belatedly. There was no fault on the part of the applicant in that regard. In view of the same, the applicant is entitled for interest on delayed payment more particularly in view of G.R. dated 20.06.1996 (Annexure A-20), Government Circular dated 17.06.2008 (Annexure A-21), Government Circular dated 29.04.2016 (Annexure A-22) and Government Circular dated 09.09.2019 (Annexure A-23).

(xi) In order to justify his claim of interest on delayed payment, the learned Advocate for the applicant placed reliance on the judgment of the Hon'ble High Court of Bombay in the matter of **Vinodkumar Narayan Dixit Vs. The State of Maharashtra** in **W.P. No. 12966/2017**, decided on 03.04.2018 (Annexure A-24). Hence, the present Original Application.

3. (i) The present Original Application is resisted by filing separate affidavits in reply on behalf of respondent Nos. 2 and 5 respectively, thereby the contentions raised by the

applicant that due to administrative lapses the pension and pensionary benefits were paid to the applicant belatedly are denied. The respondent No. 2 has specifically submitted that there is revision of pay fixation in respect of the applicant on account of withdrawal of 3rd ACPS. In view of that, fresh pension proposal was required to be submitted and consequently, fresh / revised order of pension and commutation of pension were required to be issued. It is stated specifically on behalf of respondent No. 2 that the office of Accountant General has no role to play. The respondent No. 2 comes into picture only after original or revised pension proposal is submitted.

(ii) The respondent No. 5 has specifically stated that there is no administrative lapse on behalf of the office of respondent No. 5 in dealing with the pension matter of the applicant. The applicant was responsible in not getting the No Dues and No Departmental Enquiry certificates in time. In view of that, there is no merit in the present Original Application and the same is liable to be dismissed.

4. I have heard the arguments advanced by Smt. Suchita A. Dhongde, learned Advocate for the applicant on one hand and

Shri V.R. Bhumkar, learned Presenting Officer for the respondents on the other hand.

5. Upon perusal of the pleadings and documents on record, it is seen that the case of the applicant about delayed payment about pension and pensionary benefits is reflected in para No. 18 of the O.A., which is as follows :-

“18. On 21.12.2019 the applicant submitted detail application to respondent no. 3 urging that the pension & pensionary benefits were released belated. So he prayed for payment of interest on delayed payment of pension. He has submitted the application with details in tabular form. As per the application the amount of GIS received Rs. 2,61,008/- on 25.10.2017 G.P.F. 2,41,123/- on 04.01.2018, leave encashment 8,33,110/- on 17.07.2018, Gratuity 5,92,515/- on 23.01.2019 commuted pension 7,21,447/- on 30.11.2019 monthly pension from July 2017 to October 2019 i.e. 28 months together after 29 months. He has requested to pay interest on delayed payment as per Govt. Rules, G.Rs.

Copy of application dt. 21.12.2019 is annexed as annexure as A-18.”

6. Undisputedly the applicant retired on superannuation w.e.f. 30.06.2017 as reflected in document of notice of retirement dated 27.06.2017 and relieving order dated 01.07.2017 (Annexure A-1 collectively). Pension papers of the applicant were also submitted by the respondent No. 5 to the office of respondent No. 2 as per communication dated 18.10.2017 (Annexure A-2). Perusal of the said communication does not

show any failure on the part of the applicant to comply with the requisite procedure. The said alleged lapses are pleaded only in the affidavit in reply on behalf of respondent No. 5. In view of the same, the contentions raised in the affidavit in reply for the first time would not help the respondents much.

7. Considering the facts of the case, the provisions of Rule 129A of the Maharashtra Civil Services (Pension) Rules, 1982 dealing with interest on delayed payment of gratuity and Rule 129B of the said rules dealing with interest on delayed payment of pension would come into play. Those provisions are 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.]”*

8. Considering the facts on record in the background of the above-said provisions, it is evident that in fact, the respondent No. 2 sent communication dated 10.11.2017 (Annexure A-4), thereby granting pension, pensionary benefits and gratuity and accordingly issued pension payment order and Commutation of Pension Order (CPO) vide communication dated 07.12.2017

(Annexure A-5). The applicant, however, did not receive the pension and pensionary benefits as per the said documents. That is because subsequently the respondent No. 5 issued office order date 08.12.2017 (Annexure A-6) withdrawing 3rd ACPS granted to the applicant by which the pay fixation was revised, admittedly affecting the pension and pensionary benefits to be received by the applicant. After re-fixation of the payment fresh pension proposal was submitted, in which time was consumed and ultimately revised the pension and pensionary benefits were granted to the applicant as per PPO and CPO (Annexure A-17 collectively) issued on 19.11.2019. The above facts would not show that the corollary of the events would attribute any failure on the part of the applicant to follow the procedure in preparing and getting sanctioned pension papers or for that matter getting 3rd ACPS benefit due to any misrepresentation by the applicant. The payment of pension and pensionary benefits were belated only due to administrative lapses.

9. In view of above facts, if the claim of the applicant made in this Original Application is considered, it is seen that the applicant received GIS amount of Rs. 2,61,008/- on 25.10.2017, which is after about 3 months and 25 days of date of retirement. He received amount of GPF of Rs. 2,41,123/- on 04.01.2018 i.e.

after about six months. He received leave encashment of Rs. 8,33,110/- on 17.07.2018 i.e. after about one year, gratuity amount of Rs. 5,92,515/- on 23.01.2019 after lapse of about one years and 7 months from the date of retirement and commutation of pension of Rs. 7,21,447/- on 30.11.2019 i.e. after about two years and five months.

10. So far as delayed payment of pension and pensoinary benefits are concerned Rule 129A of the Maharashtra Civil Services (Pension) Rules, 1982 relates to interest on delayed payment of gratuity, whereas Rule 129B of the said rules deals with interest on delayed payment of pension. As per the Rule 129A and 129 B respectively of the said Rules, the interest is payable on gratuity if it is received after three months and on the pension, if it is received after six months of the date of retirement respectively. There is no specific provision in the Pension Rules about interest on delayed payment of GIS, GPF and Leave Encashment. In view of the same, in my considered opinion, the interest on delayed payment of GPF, Leave Encashment and GIS can be granted on the footing of the interest as contemplated under Rule 129A of the said Rules, as those amounts are payable to the applicant immediately on his retirement and the same is payable merely on making application for that at the most. In

view of the same, I hold that the applicant is entitled for interest on delayed payment of pension and pensoinary benefits as discussed hereinabove. In the result, I proceed to pass the following order:-

ORDER

The Original Application is allowed in following terms:-

- (A) The respondents are directed to pay the interest in accordance with the provisions of Rule 129A of the Maharashtra Civil Services (Pension) Rules, 1982 on the amount of Gratuity, GIS, GPF and Leave Encashment and interest as per the Rule 129B of the Maharashtra Civil Services (Pension) Rules, 1982 on the amount of arrears of pension and commutation of pension in accordance with rules within a period of three months from the date of this order, failing which, the respondents will be liable to pay the interest @ 12% till it's realization.
- (B) Accordingly, the O.A. stands disposed of with no order as to costs.

PLACE : AURANGABAD.

DATE : 15.03.2023.

KPB S.B. O.A. No. 91 of 2020 VDD Interest on delayed payment.

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