

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.143/2017.

Laxman Malkanna Allakondwar,
Aged about 68 years,
Occ- Nil,
R/o Ambedkar Ward No.2,
Near the house of Tembhone Saokar,
At and Post Armori, Distt. Gadchiroli.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Irrigation,
Mantralaya, Mumbai-32.
2. The Chief Engineer,
Department of Irrigation, Nagpur.
3. The Superintending Engineer,
Irrigation Project Circle, Chandrapur.
4. The Executive Engineer,
Minor Irrigation Division, Chandrapur.

Respondents.

Shri M.R.Pillai, the Ld. Advocate for the applicant.
Shri S.A. Sainis, the Ld. P.O. for the respondents 1 to 3.
Shri K.D. Deshpande, learned counsel for respondent No.4.

**Coram:- Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGMENT

(Delivered on this 18th day of September 2017.)

Heard Shri M.R. Pillai, the learned counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondent Nos. 1 to 3. Shri K.D. Deshpande, learned counsel for respondent No.4.

2. The applicant is claiming directions to the respondents to release balance amount of Rs. 9,632/- towards group insurance and interest at the rate of 24% p.a. on the retiral benefits w.e.f. 30.6.2006 to 2016. He is also claiming directions to the respondents to release the benefit towards salary, medical leave, travelling allowance and TTA as shown in the statement of claim annexed with the application. The total claim as per the said statement is Rs.3,35,217/-.

3. The applicant had retired on superannuation as Sectional Engineer on 30.6.2006. Since his retiral benefits were not paid, he filed O.A.NO. 359/2004 before this Tribunal. This Tribunal vide order dated 7.4.2005 in the said O.A. was pleased to direct as under:-

The O.A. is dismissed with no order as to cost. However, in case the applicant approaches and makes compliance as per the directions, the respondents shall consider to make payment of the amounts which are payable to him and has not been paid as discussed above on account of the T.A. bills

for the months of June and July 2001, amount of unpaid salary of Rs. 56,348/- and the amount of Rs.3,789/- and Rs. 4,171/- on account of the survey work at Wardha and the claim of attendance allowance as per rules.+

4. Pensionary benefits were not given inspite of the specific order and, therefore, the applicant again filed O.A.No.208/2015 in which this Tribunal on 24.8.2015 was pleased to pass the following order:-

The learned counsel for the applicant submits that the applicant undertakes to submit all the relevant papers to the department within two weeks. The learned counsel for the respondents submits that thereafter the department will complete the pension case as early as possible. The applicant should cooperate so after receipt of all the papers. The respondents to submit the pension case to get retiral benefits to the Accountant General within two months. With this direction, the O.A. is disposed of with liberty to approach this Tribunal in case of any grievance.+

5. In spite of these two directions, the amount has not been paid to the applicant and, therefore, he has filed this O.A.

6. The learned counsel for the applicant admits that the applicant has received all the amounts except the amount of G.I.S. which is miscalculated. He stated that in fact the applicant is entitled to receive Rs. 44,000/- towards G.I.S. But the respondents miscalculated it as Rs. 34,368/- and, therefore, the applicant is entitled to claim Rs. 44,000/- towards G.I.S. alongwith interest.

7. The respondents submitted that almost all the amount has been paid to the applicant. The G.I.S. amount was, however, miscalculated and, therefore, the said mistake was rectified and after proper calculations, it was noticed that the amount of Rs. 34,368/- was due towards the G.I.S. amount and the same has been paid to the applicant. It is stated that the respondents are not liable to pay interest, since the applicant was himself responsible for the delay and he was not cooperating the respondent authorities.

8. I have carefully gone through the order passed by this Tribunal in O.A. No. 359/2005. It is material to note that, the said O.A. was dismissed. But it was observed that, in case the applicant approaches and makes compliance as per directions, the respondent was to consider his claim. This clearly shows that some compliance were to be made by the applicant which he did n to and, therefore, directions were issued.

9. In O.A. No. 208/2015, this Tribunal gave an opportunity to the applicant to submit relevant papers to the department within two weeks and thereafter the department was to complete the pension case as early as possible. It was again observed that the applicant should co-operate with the department. This observation clearly shows that the applicant was not co-operating with the department. However, he was given an opportunity to submit papers. In view of this, the respondent authorities cannot be said to be totally responsible for payment of retiral benefits to the applicant at a belated stage. On the contrary, possibility that the applicant was not co-operating the respondent authorities, seems to be more probable. In such circumstances, the claim of interest on retiral benefits by the applicant cannot be considered.

10. The learned counsel for the applicant submits that the respondents themselves calculated the amount of G.I.S. of Rs. 44,000/- as per letter dated 25.6.2014, a copy of which is placed on record at page Nos. 77 & 78. In this regard, the case of the respondents that the said amount was miscalculated. The said mistake has been rectified by the department.

11. Shri K.D. Deshpande, the learned counsel for respondent No.4 has invited my attention to a letter dated 21.4.2016 and the relevant chart. These documents are at page Nos. 119 to 121

(both inclusive) i.e. at Annexure R-3 (i) (ii). This is a proper calculation made by the respondent authorities as regards the G.I.S. amount to be paid to the applicant. As per these documents, the amount of Rs. 34,368/- is due towards G.I.S. and this was the only legitimate amount to be paid to the applicant.

12. The learned counsel for the applicant submits that this amount was not paid within time to the applicant. On the contrary, the respondents authorities falsely stated that the departmental enquiry was pending against the applicant and, therefore, the amount cannot be paid. In fact the applicant was already exonerated from the departmental enquiry. In this regard, the learned counsel for the applicant has invited my attention to one letter dated 4.2.2015 whereby information has been given to the Superintending Engineer, Irrigation Project Circle, Chandrapur (R.3) by the Executive Engineer, Minor Irrigation Division, Chandrapur, wherein it was stated that since the departmental enquiry was pending against the applicant, retirement benefits shall be withheld. The learned counsel for the applicant, however, further invited my attention to the letter dated 22.8.2014 issued by Govt. of Maharashtra. The said letter clearly shows that the applicant was exonerated from all the charges in the departmental enquiry. This clearly shows that the Government has exonerated the applicant from all charges in the departmental enquiry. On 22.8.2014

and, therefore, the statement that the dues were withheld because of pendency of departmental enquiry against the applicant vide letter dated 4.2.2015, is incorrect. There was absolutely no harm to release at least the amount of Rs. 34,368/- towards the amount of G.I.S. to the applicant from the date of exoneration of the applicant from the departmental enquiry. The applicant, therefore, can definitely claim interest on the amount of G.I.S. of Rs. 34,368/- from 22.8.2014, i.e. the date of exoneration of the applicant from the departmental enquiry till he actually receives this amount as per the provisions of the Maharashtra Civil Services (Pension) Rules, 1982. Since rest of the claim has already been satisfied and the applicant himself is responsible for not getting that claim within time, he will not claim interest on that amount. Hence, I proceed to pass the following order:-

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondents are directed to pay the amount of Rs. 34,368/- towards the amount of G.I.S. to the applicant, if not paid.
- (iii) In case the said amount is paid, the respondents shall pay interest as per the provisions of the M.C.S. (Pension) Rules, 1982 on the said amount from the date of applicant's exoneration from the departmental enquiry i.e. 22.8.2014 till he actually receives that amount.

- (iv) The respondents are directed to calculate the interest accordingly on the said amount of Rs. 34,368/- and shall pay the same to the applicant within a period of three months from the date of this order.
- (v) No order as to costs.

(J.D.Kulkarni)
Vice-Chairman(J)

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