

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO.158/2005.**

Vijay Rajabhau Chincholkar,  
Aged about 55 yrs.,  
Occ-Executive Engineer,  
Regional Minor Irrigation Cell,  
Irrigation Department, Amravati.  
R/o Govind 17, Vidya Vihar, Pratap Nagar,  
Nagpur.

**Applicant**

**-Versus-**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Department of Water Resources,  
(Previously known as Irrigation Department),  
Mantralaya, Mumbai-440 032.
  
- 2) The Chief Engineer,  
Water Resources Department,  
Sinchan Bhavan, Camp, Amravati.

**Respondents**

---

Shri B.G. Kulkarni, the learned counsel for the applicant.  
Shri P.N. Warjekar, the learned P.O. for the respondents.

---

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

---

**JUDGMENT**

**(Delivered on this 5<sup>th</sup> day of May 2017.)**

Heard Shri B.G. Kulkarni, the learned counsel for the  
applicant and Shri P.N. Warjekar, the learned P.O. for the  
respondents.

2. From the admitted facts, it seems that the applicant was appointed as Junior Engineer on 21.8.1969 on a temporary basis. Thereafter he was selected through M.P.S.C. vide order dated 27.10.1980. On 6.12.1995, the applicant was promoted as Executive Engineer. On 2.4.2004, the applicant was made to retire compulsorily on the ground that he is %lead wood+ by respondent No.1. Against the said order, the applicant filed representation on 23/30<sup>th</sup> of April 2004. However, nothing was done. The applicant thereafter challenged the order of his compulsory retirement by filing O.A. No. 343/2004.

3. In O.A. No. 343/2004, following order was passed on 15<sup>th</sup> July 2004:-

%heard Mr. R.S. Sunderam, the learned counsel for the applicant and Mr. S.D. Patil, the learned C.P.O. for the respondents.

The learned C.P.O. has placed a letter dated 14<sup>th</sup> July 2004 before this Tribunal whereby it is informed that till the decision on the representation of the applicant, he will be continued in service. In view of this , present petition has virtually become infructuous. Petition therefore, is being disposed of as infructuous. However, it is made clear that after the decision is given on the representation of the



clause 8(1), 2, 2-A and 2-B were deleted. Since the order was passed whereby the applicant was allowed to retire on superannuation from the date on which he was made to retire compulsorily. The applicant is now claiming reliefs as under :-

**3.A-** Declare that the applicant is eligible for interest @ 18% p.a. on back wages from 29.8.2005 till its realization.

**3.B-** By a suitable direction Respondent No.1 be directed to release and pay arrears of salary from 29.4.2005 to 31.8.2008 alongwith interest @ 12% p.a. from 29.4.2005 till the date of actual payment to the applicant within a period of 8 weeks from the date of the order.

**3.C-** By a suitable direction Respondent No.1 be directed to release and pay difference of pensionary benefits payable to the applicant by revising the same as on 31.8.2008 and pay the difference in amount of gratuity, leave encashment and commutation of pension with interest @ 12% p.a. from 31.8.2008 till the date of payment within 8 weeks from the date of the order.

**3.D-** By a suitable direction Respondent No.1 be directed to release and pay arrears of monthly pension payable to the applicant from 31.8.2008 with interest @ 12% p.a. from 31.8.2008 till the date of payment within 8 weeks from the date of the order.

**3.E-** By a suitable direction Respondent No.1 be directed to pay compensation of Rs. 10,000,00/- (Rupees Ten Lacs only) to the applicant for harassment, humiliation, mental agony, torture and trauma suffered by the applicant within a period of 8 weeks from the date of the order.

6. The learned counsel for the applicant submits that even though initially the respondents have tried to justify the order of compulsory retirement of the applicant dated 2.4.2004, subsequently

the respondents have admitted their mistake and the same was rectified and in view thereof, the applicant was allowed to retire on superannuation. The learned counsel for the applicant has placed reliance on the minutes of the meeting of D.P.C. dated 10.2.2016. Copies of the said minutes of the meeting of D.P.C. have been placed on record at page No. 296-B of the paper book. The learned counsel for the applicant submits that the said minutes of the meeting are self speaking. In the meeting dated 10.2.2016, case of the applicant was re-considered by the competent authority appointed by the Government which was headed by the then Additional Chief Secretary, General Administration Department of Govt. of Maharashtra. It seems that the applicant was also given an opportunity to submit his case and ultimately the Committee recommended the case of the applicant for reconsideration with following observations:-

% वरुल वतुथिती वरुलरत घेऊन वरुलष पुनवरुल्लोकन सतुतीने ती वरुलचुलकर यरुलनरुल वरुलरुलची बरुलजू मरुलंडरुलरुलस सरुलणतले. ती वरुलचुलकर यरुलनी आतले वरुलहणणे तुढलरुल वरुलरणे मरुलंडले.

- (१) ती वरुलचुलकर यरुलनी वरुलरुलरुलरुल सेवातुनरुलवरुल्लोकनरुलबरुलतची मरुलहतीरुलरुल अधकररुलरुल वरुलत केलेल वरुलनतीमधील वरुलतुतुणीची वरुलत सरुलदरुल केले वरुलसरुल करुलरुलरुलरुलरुल वरुलतुतुणीत वरुलरुलरुलरुल गोतुनीय आभलेखरुलची सरुलसरुल वरुलतवरुलरुल ब करुलंगलरुल अशी नदुलवरुलल आहे.
- (१) ती वरुलचुलकर यरुलचे वरुलरुलरुलरुल एकवरुलरुलरुलरुल बरुलतीत सेवातुनरुलवरुल्लोकन केले गेले.
- (२) ती वरुलचुलकर यरुलनी वरुलरुलरुलरुल तदुलनती मरुलळरुलरुलरुलरुल वरुलहणजेच सन १९९५-९६ नंतरचे गोतुनीय अहवल वरुलरुलरुलरुल घेणे आवरुलरुलरुल

असताना ष्यापूर्वया कालावधीचे गोपनीय अहवाल ष्रचारात घेतले गेले. ते घेणे योय नहते.

वरान् मुयाखेरान् अखेरान् आपले लेखी नवेदन षी ष्रंचोळकर यांनी सप्ततीस ढले.

६. षी ष्रंचोळकर यांनी उपिथित केले ष्या तळी मुयांपैक ष मांक (१) ष्या मुयाबाबत असे नदशान्नास आले ष्र, संबंढित कायालयीन ढपणी षह सहायकाने सादर केले ष असून ढतला केवळ क ष अधिकायाळी मायता ढलेले ष आहे. ष्यापे ष वरान् षतरावर मायता षळालेले ष नाह ष मुदा ष मांक (२) वतुथितीवर आधात आहे असे जलसंपदा षभागाया अधिकायांनी सांणतले. तसेच ष मांक (३) येथील मुदा सामाय षशासन षभागाया ढनांक १९.६.१९९८ ष्या शासन पपकात नमूद केले ष्या षी. वैकुंठनाथदास ष्रध मुय जिहा वैयकय अधिकाय २ या षरणात मा. सवच षयायालयाने ढले ष्या नणयामाणे असयाचे आढळते. षयाया लेखी नवेदनामये षयांनी पूवयेच मुदे मांडलेले आहेत.

७. शासकय कमणायाचे पुनाष्रलोकन करताना सचोटा शारान्क षमता, ष्रमान व दजाळी सरासर षसणारे गोपनीय अहवाल असे ३ षकष वापरले जातात. षी ष्रंचोळकर यायाबाबतीत सदर षकषाबाबतची पपथिती पुढान्माणे आढळते:-

- (१) षयाया सेवेया २९ वषाणये केवळ सन १९७६-७७ या एकाच वषाया गोपनीय अहवालामये षयांची सचोटा संशयापद असयाचा उलेख आहे. मा षयासाठ कोणतेह पुरावे देयात आलेले नाह. तसेच सदर शेरयांनंतर २५ वषाया कालावधीत सचोटा संबंढात षतकूल शेरा नाह
- (२) षयाया कोणायाह गोपनीय अहवालात षकृतीमानासंबंढात चांगले नाह असा शेरा आढळून येत नाह तसेच षकृतीया कारणातव ते वारंवार रजेवर असतात असा शेरा सुधा आढळून येत नाह
- (३) षी. वैकुंठनाथदास ष्रध मुय जिहा वैयकय अधिकाय २ या षरणात मा. सवच षयायालयाने नणयानुसार नगणत करयात आलेया ढ. १९.६.१९९८ रोजीया आदेशातील तरतुदानुसार षी ष्रंचोळकर यांचे पदोनीनंतरया कालावधीचे षहणजेच १९९५-९६ ते १९९९-२००० या कालावधीचे गोपनीय अहवाल ष्रचारात घेतले असता पपथितीची पुढान्माणे आढळते.

- पाच वर्षांपैकी सन १९९५-९६ व १९९६-९७ व १९९९-२००० या तीन वर्षांमधील २१ महिन्यांच्या कालावधीचे गोपनीय अहवाल चांगला (ब) दर्जाचे आहेत.
- मा १९९७-९८ मधील ५ महिन्यांच्या कालावधीचे गोपनीय अहवाल ब (-) असे आहेत.
- वर्ष १९९८-९९ मधील सुमारे १३ महिन्यांच्या कालावधी हा संपूर्ण कालावधी समजावता आला असून या कालावधीत यांना काम करण्याची संधीच मिळाली नसल्याने सदर कालावधीची यांची कामांवर पूर्णतः समजता येणार नाही.

वरिल माणे सचोटीसारक्या मता आण गोपनीय अहवालाची सरासरी त्वारे या तीनही प्रकारांची ही घंघोळकर यांच्या बाबतीत पूतळा होत असल्याचे आढळून येते.

८. तसेच ही घंघोळकर यांचे सेवापुनाखळोकन करताना जलसंपदा विभागाने यांचे एकूण सेवापुनाखळोकन केल्या असल्याचे विभागाने माध्य केल्या आहे. अशा प्रकारे ही घंघोळकर यांच्या एकूण सेवापुनाखळोकन करण्याची जलसंपदा विभागाची कायद्यावर वाजवी (Reasonable) ठरत नाही.

९. वरिल परिस्थिती लक्षात घेता जलसंपदा विभागाने ही घंघोळकर यांचे करणी सेवापुनाखळोकनाबाबत केलेल्या कायद्यावर योय ठरत नसल्याचे ही घंघोळकर यांना मुदतपूर्व सेवाजवृत्त करण्याची कायद्यावर रद्दबातल ठरवावी अशी शिफारस करण्यात येत आहे.”

7. In view of the aforesaid recommendation of the Committee, respondent No.1 was pleased to pass the following order on 14.9.2016:-

%ॐ. व. रा. घंघोळकर यांनी संदर्भाधीन आदेशावरूध शासनाकडे आवेदने केल्या होती. सदर आवेदनांच्या व स म ाधिकरणाने दिलेल्या निर्देशांच्या अनुषंगाने ताव सामान्य शासन विभागांच्या पुनाखळोकन संपत्तीकडे सादर करण्यात आला. पुनाखळोकन संपत्तीने ही. व. रा. घंघोळकर यांना मुदतपूर्व सेवाजवृत्ती ऐवजी ज्यत वयमानानुसार सेवाजवृत्त करण्याबाबत शिफारस केल्या असून, यास स म ाधिकरणाने मान्यता दिलेली आहे. यातव ही. व. रा. घंघोळकर यांना द. २८.४.२००५

ऐवजी ँनयत वयमानानुसार ँद. ३१.८.२००८ रोजी (ज०म ँद. २५.८.१९५०) सेवाँनवृ० हो०यास मंजुर० दे०यात येत आहे.”

8. From the aforesaid minutes of the meeting, it will be thus clear that the competent committee came to the conclusion that the compulsory retirement of the applicant on the ground that he has become 'dead wood', was held to be not proper and, therefore, instead of retiring the applicant compulsorily, he was allowed to retire on superannuation on 31.8.2008 instead of 28.4.2005. In short, order of compulsory retirement was cancelled and the applicant was allowed to retire on attaining the age of superannuation. The learned counsel for the applicant submits that because of illegal acts committed by the respondent authorities, the applicant has suffered a lot. He has undergone tremendous mental agony for such illegal acts on the part of the respondents. In the said period, the applicant was not paid his regular dues and faced tremendous humiliation.

9. The learned P.O. has invited my attention to the affidavit in reply filed by respondent Nos. 1 and 2 and also to the additional affidavit in response to the rejoinder filed by the applicant. The respondents have given various dates as regards payments made to the applicant from time to time. It is stated that, the salary for the period from 29.4.2005 to 31.8.2008 alongwith pay fixation as per Sixth



Pay Commission worth Rs. 8,34,041/- was paid to the applicant on 10.4.2017 and gross pay worth Rs. 9,55,041/- was paid. It is further stated that the payment of benefit of gratuity commutation of pension, monthly pension as per last pay as on 31.8.2008 etc. are in progress and the revised pension case has been submitted to the Accountant General-II (M.S.), Nagpur on 27.12.2016 and further action will be taken by the appropriate authorities after approval of the pension case by the Accountant General-II (M.S.), Nagpur. Leave encashment bill has also been submitted to the Treasury Officer, Amravati on 1.2.2017 and the payments will be made on approval by the District Treasury Officer, Amravati.

10. The respondents have denied interest to the applicant from 1.9.2008 and it is stated that there is no provision in M.C.S. (Pension) Rules, 1982 in respect of payment of interest and there is no delay in payment. The process of payment of claim has been started immediately after memorandum dated 14.9.2016 was issued.

11. The applicant has claimed compensation of Rs. 10,000,00/- (Ten lacs) for the so-called mental agony and torture. It is stated that the said claim is not substantiated and, therefore, not accepted.



whereby it was decided that the applicant shall be treated as retired on attaining the age of 58 years i.e. on superannuation. Admittedly, the applicant was required to run from pillar to post for getting the impugned order dated 2.4.2004 set aside. He filed representations and thereafter approached this Tribunal twice and ultimately the Committee came to the conclusion that his compulsory retirement was not legal. The very basis for compulsory retirement of the applicant was wrong and, therefore, the said mistake has been rectified ultimately vide order dated 14.9.2016. The applicant has undergone tremendous agony for the wrong order which was served on him. He was made to retire compulsorily on 2.4.2004 the said order has been rectified on 14.9.2016. It can just be imagined as to what agony the applicant must have undergone for fighting for his rights during all these years. Admittedly, such damages cannot be quantified specifically and in fact the loss which the applicant has suffered can be said to be irreparable. He must have been humiliated for all these years.

14. The learned counsel for the applicant has placed reliance on the judgment reported in **2014 (1) SLR 137 (Bom.) in case of Mrs. Teresinha Fernandes V/s Principal Chief Engineer, P.W.D., Goa.** In this case, the Hon'ble Hlgh Court was pleased to grant arrears of Rs. 10,000/- in the similar circumstances.

15. The learned counsel for the applicant has also placed reliance on the judgment reported in **AIR 1989 SC 1393 in case of K.D. Gupta V/s Union of India and others** and particularly relied on the observations of the Honble Apex Court in para 11 as under:-

The defence personnel have peculiar incidence of service. Life's course does not run smoothly for everyone. In the present proceedings which is for contempt, we do not think that we can award compensation under every head of claim. Some of factors relevant for such purpose are the duration of time for which the petitioner was subjected to various medical checks and hospitalisation, and the consequent suffering which he underwent, the loss of promotional prospects and the fact that he would now be obliged to request to be released from service prematurely. We are of the view that, a total compensation of Rs. four lakhs would meet the ends of justice. This would obviously mean that the petitioner would not be entitled to any other claim on these heads but we make it clear that he would be entitled to all other service benefits which an officer of the Lt. Colonel's rank, which the petitioner admittedly holds, would be entitled to. This judgment should serve the petitioner in vindication of his stand and to dispel clouds cast on his physical and mental health by the purported lower medical characterisation and

obviously in the event of his being considered for re-employment after retirement his suitability would be considered on the basis of his service records and the judgment of this Court.+

16. The learned counsel for the applicant has also placed reliance on the judgment reported in **(2000) 9 SCC 48 in case of Mohammad Jameeruddin Siddiqui V/s Executive Council, A.M.U. and another** and **2014 (5) SLR 721 in case of D.D. Tewari (D) V/s Uttar Haryana Bijli Vitran Nigam Ltd. and others** and **AIR 1985 SC 356 in case of State of Kerala and others V/s V.M. Padmanabhan Nair**. In all these cases, the Hon'ble Apex Court has observed that retiral benefit is a valuable right of employee and culpable delay in settlement / disbursement must be dealt with adequately on payment of interest. Even there are provisions under the M.CS. (Pension) Rules, 1982 for grant of interest on delayed payment.

17. Coming to the present case, it is to be noted that, the applicant has been wrongly made to retire compulsorily vide order dated 2.4.2004 and the reason for retirement seems to be that his Annual Confidential Reports (ACRs) were not good. Those ACRs were not served on the applicant and the sum and substance of the order was that the applicant was ~~dead wood~~. With this blot on the head

of the applicant, the applicant continued for fighting for his right. Ultimately, the respondents appointed a Committee which reviewed the case of the applicant and found that his compulsory retirement was wrong and on the recommendation of the Committee dated 10.2.2016, the mistake was rectified and ultimately the order rectifying the mistake was passed on 14.9.2016. Thus from 28.4.2005 to 31.8.2008, the applicant was required to undergo tremendous agony and mental torture and since it is because of the mistake on the part of the respondents, the respondents cannot avoid liability to pay compensation to the applicant as well as interest on the delayed payment. Had the applicant been allowed to retire in normal course on superannuation on 31.8.2008, he would have received all the retiral benefits immediately in the year 2008 itself. However, he has not received this amount and, therefore, the applicant is entitled to claim interest. The learned counsel for the applicant submits that, though the applicant is claiming compensation worth Rs. 10,000,00/- (Ten lacs), applicant will be satisfied with whatever compensation that may be paid to him by this Tribunal. Agony of the applicant cannot be quantified in terms of money. However, I am of the opinion that the damages worth of Rs. 10,000/- for such illegal act on the part of the respondents may serve the purpose. Hence, I proceed to pass the following order:-

**ORDER**

- (i) The O.A. is partly allowed.
- (ii) It is hereby declared that the applicant is entitled to claim interest as per the provisions of Rule 129-A & B or as per relevant rules under the M.C.S. (Pension) Rules, 1982 on the retiral benefits from the date of his superannuation i.e. 31.8.2008 till the amount is received by the applicant.
- (iii) Respondents are directed to properly calculate the pension/pensionary benefits and all other retiral benefits including difference of pay as may be admissible under the rules from the date of retirement of the applicant i.e. 31.8.2008 and shall pay all the arrears to the applicant alongwith interest within six months from the date of this order.
- (iv) Respondent No.1 shall also pay Rs. 10,000/- to the applicant as compensation for wrongfully retiring him compulsorily vide order dated 2.4.2004 and for the mental agony suffered by the applicant due to such wrong order.
- (v) No order as to costs.

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

