

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 554/2015 (S.B.)

Damodar S/o Eknath Dalvi,
Aged about 64 years,
Occ. Retired Employee,
R/o 36, Padmanabham, Rajeshwar Park,
Besa, Beltarodi Road,
Nagpur- 441 108.

Applicant.

Versus

- 1) State of Maharashtra
Department of School Education & Sports,
Mantralaya, Mumbai-32
through its Secretary.
- 2) Director of Education (Secondary &
Higher Secondary), Maharashtra State,
Directorate of Education, Pune-1.
- 3) Accountant General
(Accounts & Entitlement)-II,
Maharashtra-I, 101, Maharshi Karve
Road, Mumbai-400 020.

Respondents.

S/Shri P.C. & V.P. Marpakwar, S.M. Khan, Advs. for the applicant.

Shri M.I. Khan, P.O. for respondents.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Date of Reserving for Judgment : 23rd July, 2019.

Date of Pronouncement of Judgment : 7th August, 2019.

JUDGMENT

(Delivered on this 7th day of August,2019)

Heard Shri S.M. Khan, learned counsel for the applicant and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The material facts are that the O.A. 28/2011 was filed by the applicant and in that application order was passed on 30/1/2014 and specific direction was issued to the Administrative Department to make payment of the amount towards commutation of pension, if not paid and the Department was also directed to decide issue to pay interest in terms of rule 129-B of the Maharashtra Civil Services (Pension) Rules, 1982 and G.R. dated 6/5/1991. These directions were to be complied within a period of six months from the date of the order.

3. As this order was not complied, therefore, the Contempt Petition was filed by the applicant. Thereafter the order was passed in the Contempt Petition, but interest was not paid by the respondents on the ground that the respondents were not at fault, therefore, the present application is filed by the applicant to claim the interest for the delayed payments. It is submission of the applicant that he received the amount of communication of pension on 12/1/2015 and there was delay of 5 years 8 months, the amount of gratuity was paid on

18/3/2013, there was a delay 3 years, 11 months, arrears of regular pension from 1/11/2009 to 29/12/2013 were paid on 29/1/2013 the delay was 3 years, 2 months, the leave encashment amount was paid on 25/5/2011, there was delay of 2 years 1 month. The GIS amount was paid on 25/5/2011 there was delay of 2 years, 1 month and arrears of provisional pension from 1/5/1999 to 31/10/2009 was paid on 3/3/2010 after delay of 10 months. It is submitted that the direction issued in the O.A.28/2011 was not complied and vague reasons are shown by the respondents for not paying the interest.

4. The respondent nos. 1 & 2 have submitted their reply. It is contention of the respondents that the delay in making payment was caused due to administrative procedure and therefore the respondents are not under obligation to pay interest on any amount. The respondents have placed on record the letter dated 2/6/2014 written by the Director of Education to the Secretary, School Education and Sports Department. It is contended by the respondents that the departmental inquiry was pending against the applicant when he retired on 30/4/2009. The Inquiry Officer submitted report on 14th September, 2011 and thereafter no objection certificate was issued on 26/3/2012. Thereafter service book of the applicant was forwarded to the Pay Unit for verification of the pay and it was received on

21/6/2012 and thereafter pension case was forwarded to the Treasury and thereafter amount Rs.5,00,000/- was paid on account of DCRG.

5. It is contended by the respondents that the applicant was himself responsible for not giving cooperation to the Department and therefore the Department was unable to process the various claims. So far as amount of gratuity is concerned, it is contended by the respondents that the applicant was residing in Government Quarter and rent Rs.87,760/- was outstanding. The applicant was called upon to adjust this amount out of the gratuity but he did not agree. Thereafter consent was given by the applicant to deduct the amount and consequently on 18/3/2013 balance amount Rs.4,12,240/- was paid and therefore the respondents are not liable to pay interest.

6. So far as encashment of earned leave is concerned, it is submitted by the respondents this amount was paid to the applicant vide Cheque for Rs.3,84,540/- on 24/4/2010, but the Cheque was not deposited by the applicant in his Bank account in time and thereafter the applicant requested to re-issue the Cheque and consequently the Cheque was re-issued.

7. So far as contribution of applicant to GIS is concerned, it is contended by the respondents that in the service record the entries were not properly taken and therefore letter was written on 18/1/2010

and ultimately the amount was paid on 30/4/2010. It is contention of the respondents that the applicant was himself responsible for incomplete entries in his service book, therefore, the Department was not responsible to pay the interest.

8. So far as the provisional pension and regular pension is concerned, it is submitted that the proposal was forwarded to pay provisional pension for six months w.e.f. 1/5/2009 to 31/10/2009 @ Rs. 15,760/- and accordingly the provisional pension for six months was paid. It was authority of the Accountant General to sanction the provisional pension for the subsequent period and accordingly the proposal was forwarded to the Accountant General on 27/1/2010, but the proposal was not sanctioned by the Accountant General. It is submitted that the proposal for regular pension was approved by the Accountant General, Mumbai on 14/9/2012, but wrongly name of the Treasury was written as Amravati, it was again corrected and ultimately pension was sanctioned on 5/12/2012. On the basis of this ground, it is submitted that the Department is not responsible to pay the interest.

9. In this matter, I would like to point out that the Inquiry Officer submitted his report on 31/5/2010 and it was informed to the Disciplinary Authority that the charges against the applicant were not proved. In this background, I would like to point out that it was

responsibility of the Disciplinary Authority to pass suitable order within reasonable time, either he was disagreeing with the views of the Inquiry Officer or he was agreeing with finding exonerating the applicant from all the charges, but it was not done. Similarly the contentions of the respondents that his service book was not completed, there were incorrect entries in his service book are concerned, I would like to point out that it was duty of the Controlling Officer of the applicant to maintain his service book, it is not possible to accept that the employee was responsible for getting his service book updated. It is pertinent to note that though the applicant was exonerated by the Inquiry Officer on 31/5/2010, no haste was shown in issuing no objection certificate and to prepare his pension case. As a matter of fact it was duty of the respondents to decide all the claims of the applicant within a period of six months from the date on which he was exonerated by the Inquiry Officer. In view of these facts, it does not lie in mouth of the respondents that this delay is caused due to administrative reasons. On the contrary, I will say that the respondents' officers were negligent; they did not pay any heed and did not forward the papers to the Competent Authority and Disciplinary Authority for taking speedy decision.

10. So far as amount of gratuity is concerned, though it was contention of the respondents that amount of Rs.87,760/- was to be

recovered from the applicant from the house rent, the respondents were empowered in law to straightway deduct that amount and to pay the balance amount to the applicant, but it was not done. The respondents without any reason wrote letter to the applicant and requested him to give consent for deducting the amount. In my opinion, there was no question to seek the consent of the applicant for the deduction, as it was being a recovery of the Government amount, it was duty of the respondents to recover the amount and to pay the balance amount of gratuity immediately, but it was not done.

11. It appears that only provisional pension for six months was paid and no steps were taken by the Department to pay the provisional pension after the subsequent period. The conduct of the concerned officer was reckless and due to which the applicant was compelled to file O.A.No. 28/2011. It must be remembered that when this O.A. was filed and decided on 30/1/2014, the applicant was already exonerated from the charges and considering this fact specific direction was given by this Bench to pay the various amounts to the applicant immediately and the respondents were specifically directed to decide the issue of payment of interest in terms of Rule 129 B of the Pension Rules and the G.R. dated 6/5/1991. After going through the contentions raised by the respondents, I am compelled to say that the respondents have not discharged their obligations and though there is

an inordinate delay in paying the various amounts, they are blaming the applicant for the delay. In this situation, I am compelled to say that the applicant is entitled for the reliefs claimed in this application. In the result, I pass the following order –

ORDER

The respondents are directed to calculate the amount of interest to be paid to the applicant taking into account the delay in paying the various amounts and the respondents shall decide this factor, in view of the G.R. dated 6/5/1991. If it is found that the amounts are not paid within period as specified in the G.R., interest be paid to the applicant on the various amounts at the rate @7% p.a. on all the amounts which are paid after expiry of the specified period. The respondents are directed to comply this order within a period of four months. No order as to costs.

Dated :- 07/08/2019.

(A.D. Karanjkar)
Member (J).

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I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 09/08/2019.

Uploaded on : 09/08/2019.