

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.700/2015.

(S.B.)

Smt. Kundatai wd/o Dr. Vaijnath Gotefode,
Aged about 65 years,
Occ-Household,
R/o Hospital Ward, Kasturba Road,
Behind Jubilee High School,
Chandrapur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Public Health,
Mantralaya Mumbai-400 032.
2. The Director of Health Services,
Having its head office at St. Georges Hospital,
Govt. Dental College Building,
D'mello Road, CST, Fort, Mumbai.
3. The Deputy Director of Health Services,
Circle Office, Mata Kacheri, Nagpur.
4. The Civil Surgeon,
General Hospital, Chandrapur.

Respondents

None appeared for the applicant at the time of hearing .
Shri H.K. Pande, the Ld. P.O. for the respondents.

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

ORAL ORDER

(Passed on this 20th day of December 2018.)

None appeared for the applicant at the time of hearing. Heard Shri H.K. Pande, the learned P.O. for the respondents.

2. The applicant's husband Dr. Vaijnath Gotefode was serving as Civil Surgeon, General Hospital, Chandrapur and had joined the service in February 1967. He got retired on 31.3.1995, however did not get pensionary benefits. Dr. Vaijnath Gotefode, therefore, filed O.A. No. 254/2011 before this Tribunal for getting pensionary benefits and the said O.A. was disposed of on 31.3.2012 and, therefore, Dr. Vaijnath received pensionary benefits. However, he did not receive the delayed payment of pensionary benefits and, therefore, he made representation on 29.12.2012 for getting interest on pensionary benefits paid delayed as per Rule 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982 (in short "Pension Rules"). In the meantime, Dr. Vaijnath Gotefode died on 7.7.2013. Since Dr. Vaijnath Gotefode did not get interest and his representation was not decided during his life time, his widow i.e. the applicant has filed this O.A. and is claiming interest at the rate of 10%

p.a. on the delayed payment of gratuity and regular pension from the date of retirement of Dr. Vaijnath Gotefode from 30.6.1995 till the amount is received actually.

3. From the reply affidavit filed on behalf of respondent Nos. 2 and 3, it seems that the one criminal case under the provisions of Prevention of Corruption Act was pending against Dr. Vaijnath Gotefode. So also departmental enquiry was pending against him. The deceased was acquitted in the criminal case on 29.5.2008. But against the said judgment delivered by the Special Judge, Chandrapur in Special Case No.3/1995, the State preferred an appeal before the Hon'ble High Court of Judicature at Bombay, Bench at Nagpur bearing No. 552/2008. The said appeal was dismissed on 10.8.2010. Thereafter, various dues were sanctioned. The departmental enquiry was, however, pending, was also terminated and the deceased was exonerated from all the charges in the departmental enquiry. Because of this, there was delay.

4. The respondents were directed to state as to whether the charges in the departmental enquiry and criminal case are similar vide order dated 20.11.2018. In response to the said order, the respondent No.2 has filed an affidavit which is taken on

record. In the said reply affidavit, it is made clear that the charges in criminal case and the departmental enquiry were different.

5. Perusal of the record shows that, even accepting that the charges in criminal case as well as in the departmental enquiry are different, the deceased Dr. Vaijnath Gotefode had been exonerated from all the charges in the departmental enquiry on 19.6.2002 and thereafter he was acquitted in the criminal case by the Special Judge, Chandrapur on 29.5.2008. Even the Hon'ble High Court dismissed the appeal against the acquittal on 10.8.2010. From the Chart of payment of various dues, it seems that the amount of GIS, GPF has been paid to the deceased Dr. Vaijnath Gotefode i.e. immediately after his retirement. However, the amount of leave encashment has been paid on 2.8.2011, the amount of gratuity has been paid on 6.6.2015 and the amount of difference of arrears of suspension period has been paid on 4.5.2012. Admittedly, the Hon'ble High Court has not granted any stay for payment to the said amount to the deceased and in any case, even it is considered that the departmental enquiry and the criminal case was pending against the deceased, the deceased was acquitted from all the charges in the departmental enquiry on 19.6.2002 and was acquitted in the criminal case on 29.5.2008 and, therefore, there was absolutely no reason as

to why the amount to which he was entitled to, was not paid immediately after his acquittal in the criminal case by the Special Judge, Chandrapur. The department did not even bother to answer the representation filed by the deceased. Considering all these aspects, I proceed to pass the following order:-

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondents are directed to pay interest on the amount of leave encashment of Rs. 74,248/-, amount of gratuity of Rs. 69,300/- and difference of amount of suspension period of Rs. 31,509/- from the date of acquittal of the deceased from the criminal case till the amount was actually received by him as per the provisions of Rule 129-A and 129-B of the M.C.S. (Pension) Rules, 1982.
- (iii) The said amount, as may be calculated alongwith interest as admissible, shall be paid to the widow of the deceased i.e. the present applicant within a period of three months from the date of this order.
- (iv) No order as to costs.

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