

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 943 of 2017 (S.B.)

Dr. Vinod Pandurang Chavan,
Aged about 64 years, Occ. Retired,
r/o Plot No.250, near Trikoni Ground,
Hanuman Nagar, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through Principal Secretary,
Department of Animal Husbandry and Dairy
Development, Mantralaya, Mumbai-400 032.
- 2) Commissioner of Animal Husbandry,
Government of Maharashtra, Opp. Spicer Cottage,
Aundh, Pune-67.
- 3) Regional Director and Deputy Commissioner,
Animal Husbandry, Amravati Division, Amravati.
- 4) The Chief Executive Officer,
Zilla Parishad, Washim.

Respondents.

S/Shri P.D. Meghe, Ms. Aarti Singh, Advocates for the applicant.
Shri V.A. Kulkarni, P.O. for respondent nos.1 to 3.
S/Shri V.G. Wankhede & A.S. Chakotkar, Advs. for resp. no.4.

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

Dated :- 28/01/2020

JUDGMENT

Heard Ms. A. Singh, learned counsel for the applicant, Shri V.A. Kulkarni, learned P.O. for respondent nos. 1 to 3 and Shri V.G. Wankhede, learned counsel for respondent no.4.

2. On 1/11/1978 the applicant was appointed by the respondent no.1 in service, as Animal Husbandary Officer, Class-III.

In the year 2008 the applicant was promoted as Live Stock Officer and on 30th September, 2011 the applicant stood retired on attaining the age of superannuation, at the time of retirement the applicant was serving on the establishment of respondent no.4.

3. It is submitted by the applicant that as per the Maharashtra Civil Services (Pension) Rules,1982 it was incumbent on the respondents to pay him amount of DCRG within three months and to release his pension within six months, but it was not done, therefore, time to time correspondence was made by the applicant, but no heed was paid. It is submitted that the provisional pension was released on 29/2/2012 and regular pension was released on 13/2/2019 along with the arrears. It is submitted that gratuity was paid to the applicant on 14/11/2009.

4. The learned counsel for the applicant invited my attention to Rule 129 A and 129 B of the Maharashtra Civil Services (Pension) Rules,1982. As per rule 129A if amount of gratuity is paid after three months from the date of retirement, then the Government servant is entitled for interest @7% p.a. and if it is paid beyond one year, then the rate of interest shall be 10%.

5. The Rule 129B provides that if amount of pension is not released after six months from the date when its payment became due, then the Government servant shall be entitled for interest @10%

p.a. after the expiry of period of six months. In both the rules word 'shall' is used. Thus it seems that the provisions under Rule 129A and 129B to pay the interest for the delay are mandatory in nature, the only requirement is that the delay in the payment was attributable to administrative lapses.

6. In the present case there is no dispute about the facts that there is inordinate delay in payment of amount of gratuity and amount of regular pension to the applicant.

7. The learned counsel for the respondent no.4 submitted that the pension case of the applicant was forwarded to A.G., Nagpur it was done very promptly, but as the service book of the applicant was not complete, the pension case was sent back. Thereafter correspondence was made with the Zilla Parishad, Gadchiroli and Zilla Parishad, Bhandara as the entries were pertaining to the period during which the applicant worked in Zilla Parishad, Gadchiroli and Zilla Parishad, Bhandara. It is submitted that both the Zilla Parishad, Gadchiroli and Zilla Parishad, Bhandara did not complete the service book in time, therefore, the respondent no.4 is not liable to pay the interest to the applicant.

8. The law is trite that it is duty of the employer to maintain the service book of the Government servant. As per this legal requirement when the applicant was transferred to the establishment

of the respondent no.4, it was necessary to examine his service book. Had the officers of the respondent no.4 examined the service book promptly then the matter could have been cleared immediately. The officers of the respondent no.4 had opportunity to update the entries in the service book while preparing the pension case. It seems that the staff of the respondent no.4 was negligent, the staff did not pay heed to the mandatory requirements under rule 120 and 121 MCS (Pension) Rules 1982. In view of this provisions the respondent no.4 can not say the it is not responsible to pay the interest for the delayed payments.

9. After reading the reply submitted by the respondent no.4, it appears that for administrative lapses, the amount of gratuity and authority to release pension could not be issued, the applicant was not responsible for it. Once it is accepted that due to administrative lapses the delay is caused in paying the amount of gratuity and releasing the amount of pension, then in view of the mandatory provisions under Rules 129A and 129B as the delay is more than one year, the applicant is entitled for the interest as claimed.

10. The respondent nos. 1 to 3 cannot avoid their responsibilities. The applicant was Government servant and he was on deputation at the time of his retirement. As the respondent no.4 was negligent in making payment of the gratuity and pension, it was

duty of the respondent nos.1 to 3 to issue necessary directions to Zilla Parishad, Gadchiroli and Zilla Parishad, Bhandara to expedite the matter, but it was not done. It is pertinent to note that the O.A. was filed by the applicant in the year 2017 and after filing of this application also, no speedy action was taken to release the amount of gratuity and the pension. The regular pension and gratuity are released in the year 2019. Considering this conduct of the respondents, all the respondents are collectively liable to pay the interest. In view thereof, I pass the following order –

ORDER

The O.A. is allowed. The respondent no.4 shall pay interest at the rate of 10% p.a. on the amount of gratuity, after expiry of three months from the date of retirement, till realization of the amount. The respondent no.4 shall pay the interest @ 10% p.a. on the amount of regular pension, after expiry of six months from the date of retirement, till realization. No order as to costs.

Dated :- 28/01/2020.

(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 : 28/01/2020.

Uploaded on : 29/01/2020.