

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 566 of 2019 (SB)

Dr. Dnyaneshwar S/o Wamanrao Papadkar,
Aged about 57 years, Occu.: Retired,
R/o Plot No.189, Ramnagar, Nagpur-33.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Public Health Department, G.T. Hospital,
10th Floor, Sankul Building, Mantralaya,
Mumbai-400001.
- 2) Director of Health Services,
Arogya Bhawan, St. George Hospital Compound,
P.Dmelo Road, Mumbai- 400 001.
- 3) Deputy Director of Health Services,
In the office of Deputy Director,
Health Service, Nagpur Region, Mata Kacheri,
Shradanandpeth, Nagpur-440 022.
- 4) Chief Executive Officer,
Zilla Parishad, Civil Lines, Nagpur.
- 5) District Health Officer,
Zilla Parishad, Civil Lines, Nagpur.
- 6) Accounts and General A & E (II) Office
Maharashtra, Civil Lines, Nagpur.

Respondents.

Shri A.P. Sadavarte, Advocate for applicant.
Shri A.M. Ghogre, learned P.O. for respondent nos.1 to 3 & 6.
S/Shri Majid Shaikh, R.D. Tajne, Advocates for resp. nos.4 and 5.

**Coram :- Hon'ble Shri M.A. Lovekar,
Member (J).**

Date of Reserving for Judgment : 18th January, 2023.

Date of Pronouncement of Judgment : 27th January, 2023.

JUDGMENT

(Delivered on this 27th day of January, 2023)

Heard Shri A.P. Sadavarte, learned counsel for the applicant, Shri A.M. Ghogre, learned P.O. for the respondent nos.1 to 3 and 6 and Shri Majid Shaikh, learned counsel for respondent nos.4 and 5.

2. Case of the applicant is as follows –

By order dated 31/05/2015 (Annex-R-4-1) the applicant was transferred to Public Health Centre (PHC), Bhandarbodi, District Nagpur. He joined on the transferred post on 15/09/2015, submitted joining letter and medical certificate and applied for conversion of leave period as per law. On health grounds he submitted an application dated 21/10/2015 (Annex-A-1) for voluntary retirement w.e.f. 01/02/2016. It was accepted (Annex-A-2). Respondent no.5 and Divisional Commissioner, Nagpur were requested to convert period from 18/06/2015 to 14/09/2015 (89 days) into commuted leave. Retiral benefits of the applicant were not released in time. On complaint (Annex-A-3) made by the applicant inquiry was conducted and report (Annex-A-4) was submitted stating therein as follows –

“अभिप्राय :-

- १) उपप्राचार्य अपारंपारीक अभियान प्रशिक्षण केंद्र नागपूर यांचे पत्र क्रं २३४५ दि. १/१२/२०१५ अन्वये डॉ.पापडकर यांना दि.१८/६/२०१५ ते दि.१४/९/२०१५ पर्यंत एकूण ८९ दिवस परावर्तीत रजा मंजुरीची शिफारस जिल्हा आरोग्य अधिकारी, नागपूर यांचेकडे करण्यात आली होती. यावर निर्णय घेतांना डॉ.पापडकर यांच्या आजारपणाच्या सत्यतेबाबत जर जिल्हा आरोग्य अधिकारी, नागपूर यांना शंका असल्यास वैद्यकीय मंडळाकडे पाठवून शंका निरसन करून घेता आली असती परंतु तसे न करता असाधारण रजा मंजुर करणे समर्थनीय वाटत नाही.
- २) डॉ. पापडकर यांनी स्वेच्छा निवृत्तीचा नोटीस दि.२१/१०/२०१५ ला सादर केल्या नंतर लगेच त्यांच्या सेवा पुस्तकातील त्रुटी दुर करण्याची कार्यवाही सुरु करणे अपेक्षित होते. सदर प्रकरणी हि कार्यवाही दि.२४/५/२०१६ रोजी सुरु करण्यात आली. यामध्ये ७ महिने विलंब झालेला आहे. त्यामुळे डॉ. पापडकर यांनी त्यांचा दि.१४/८/२०१७ रोजी मा.उपसंचालक आरोग्य सेवा नागपूर मंडळ नागपूर तसेच मुख्य कार्यकारी अधिकारी जि.प.नागपूर यांचेकडे सादर केलेल्या तक्रारीनुसार त्यांना निवृत्ती विषयक लाभ प्राप्त होण्यास विलंब झालेला आहे.
- ३) डॉ. पापडकर यांचे सेवा निवृत्ती प्रकरण मा.महालेखाकार नागपूर यांचेकडे सादर करतांना सेवा निवृत्ती वेतनामध्ये एन.पी.ए. तसेच सहा अतिरिक्त वेतनवाढी विचारात न घेता सादर केल्यामुळे सुधारीत प्रस्ताव सादर करावा लागला व त्यामुळे सुधारीत सेवानिवृत्ती वेतन व इतर लाभ मिळण्याकरिता विलंब झालेला आहे.
- ४) कोषागारातुन परत आलेली देयके फेर सादर करतांना त्रुटी पुर्तता करण्याची दक्षता न घेतल्यामुळे देयक वारंवार परत आले व त्यामुळे सेवानिवृत्ती विषयक लाभ मिळण्यास विलंब झालेला आहे.’’

In view of the G.Rs. dated 13/08/2004, 29/04/2016 and 24/04/1995 (Annex-A-8, Annex-A-9 and Annex-A-10 respectively) persons responsible for delay in payment of retiral benefits should be departmentally dealt with, and payment should be made with interest. Hence, this O.A.

3. According to the applicant, following Chart gives details of payment of retiral benefits and delay caused in making the same –

Sr. No.	Heads of Retirement benefits	Amount received	Due Date for receipt of payment	Actual date the amount received	Delay Period
1.	Gratuity	5,13,000	June 2016	29/10/2016	4 months
2.	Pension for period February 2016 to October 2016	3,26,352	September 2016	23/11/2016	1 month 23 days
3.	Difference of revised gratuity amount	1,50,426	June 2016	27/7/2017	1 year
4.	Difference of revised pension	46,795	September 2016	February 2016	9 months
5.	GIS	1,92,602	June 2016	22/11/2016	4 months 22 days
6.	Leave Encashment	9,97,665	June 2016	17/2/2017	7 months 17 days
7.	Commutation of pension	7,86,783	June 2016	23/11/2016	4 months 23 days
8.	Difference of arrears of commutation value of pension	4,67,618	June 2016	6/4/2017	9 months
9.	Conversion of extra ordinary leave period into commuted leave from 18/6/2015 to 14/9/2015	2,51,678	March,2016	20/6/2019	3 years 3 months

4. Reply of respondent nos.4 and 5 at pages 68 to 75 contains following averments. The applicant disobeyed order of his transfer dated 31/05/2015. He did not submit any application for grant of leave from 19/06/2015 to 14/09/2015 before respondent no.5. The applicant submitted an application for sick leave on 19/06/2015 before Principal, UOTC, Suraburdi after being relieved from said

establishment. He joined establishment of respondent no.5 on 15/09/2015 and thereafter applied to respondent no.1 for voluntary retirement. Respondent no.5 could not have sanctioned his application for sick leave. The applicant, by filing complaint, tried to pressurise respondent no.5 to grant his leave application. The correct Chart of payment of retiral benefits to the applicant is at Annex-R-4-3. The Chart at page 83 is reproduced below –

Dr. D.W. Papadkar, Retd. M.O. Group-A Retd. Date- 1/2/2016							
Govt. Order Received Date – 6/4/2016							
Sr.No.	Particular	Treasury Submit Date	Return for Objection Date	Again sent back removing on Date	Sanction Date	Vr.No.	Amount
1	GPF	16/7/2016	25/7/2016	29/7/2016	4/8/2016	91	1173065
2	GPF	29/8/2016			6/9/2016	6	161080
3	GIS	21/9/2016	3/10/2016	18/10/2016			
			29/10/2016				
		4/11/2016			7/11/2016	52	192604
4	Leave Encashment	29/11/2016	7/12/2016	30/1/2017	7/2/2017	324	997665
5	DCRG	14/10/2016			18/10/2016	990	513000
6	DCRG (Revise)	16/3/2017	23/3/2017	24/5/2017			
	(Excess payment Vasuli aslyane) (187000-36574) 150426		6/6/2017	19/6/2017			
			29/6/2017	30/6/2017	18/7/2017	665	150426
7	Leave Salary	11/6/2019			17/6/2019	283	251678
	18/6/2015 to 14/9/2015						
	Leave Sanction 26/4/2019						

In this behalf correspondence was made (Annex-R-4-4).

By order dated 06/10/2016 (Annex-R-4-6) it was directed –

“महाराष्ट्र नागरी सेवा (रजा) नियम मधील नियम ६८ (१)मधील तरतुदीनुसार व शासन निर्णय वित्त विभाग क. अरजा/२४०१/८९/सेवा-९ दि.१७/९/०१ मधील निर्देशानुसार, डॉ.ज्ञानेश्वर वामनराव पापडकर वैधकीय अधिकारी गट-अ प्राआर्के, भांडारबोडी जिल्हा परिषद नागपूर यांचे रजा लेख्यामध्ये सेवानिवृत्तीचे दिनांकास शिल्लक असलेल्या २९३ दिवसांच्या अर्जित रजेचे रोखीकरणास मंजूरी देण्यात येत आहे.”

Thus, there was no delay on the part of the answering respondents in making payment of retiral benefits to the applicant and hence no interest would be payable under Rules 129-A/ 129-B of the Maharashtra Civil Services (Pension) Rules, 1982.

5. In his rejoinder at pages 98 to 110 the applicant has averred as follows –

Though he was transferred by order dated 31/05/2015 (Annex-A-12), he was relieved by order dated 19/06/2015 (Annex-A-13) and before he was relieved he submitted application for grant of sick leave dated 18/06/2015 (Annex-A-14) to Principal, UOTC and also submitted request letters Annex-A-15 and Annex-A-16 to respondent no.5. UOTC also submitted letter of recommendation (Annex-A-17) to respondent no.5. Respondent no.5 failed to give any cogent and convincing reason for granting the (1) gratuity and revised gratuity difference amount (2) in granting the pension and revised difference of pension amount, (3) granting the GIS amount, (4) Leave

Encashment, (5) Commuted value of pension and (6) difference of commuted value of pension (7) granting the amount towards converted leave period from 18.06.2015 to 14.09.2015 benefits at a belated stage.

Time period for calculating the delayed payment towards pensionary benefits ought to have been considered from 01.02.2016 and accordingly the respondents be directed to pay the interest over the retiral benefits as per M.C.S.R. (Pension) Rules 129(A) and 129(B). This is a case of total negligence on the part of the Respondent no.4 for paying all the pensionary benefits to the applicant at belated stage.

6. The only issue to be dealt with is of delayed payment of retiral benefits to the applicant and interest payable thereon. The applicant as well as contesting respondents have given Charts of payment. These Charts have been reproduced above. I have referred to the conclusions drawn in report of inquiry (Annex-A-4). It is apparent that the applicant is entitled to get interest as per Rules 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982. The respondent department shall calculate the extent of delay in making payment of each item of retiral benefits and pay interest thereon as per Rules 129-A / 129-B of the Maharashtra Civil Services

(Pension) Rules, 1982 to the applicant till the date of actual payment.

This order shall be complied with within one month from today.

The O.A. is allowed in these terms with no order as to costs.

(M.A.Lovekar)
Member (J).

Dated :- 27/01/2023.
dnk.

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 : 27/01/2023.