

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO. 1229 OF 2019**

**DISTRICT: PUNE**

Shri Munshi Rafique Majeed, )  
Age – 64 years, Retired as Research Officer, )  
Caste Validity Committee, Office at Caste Validity )  
Committee -03, Yervada, Pune. ) **....Applicant**

**Versus**

1. State of Maharashtra, )  
Through Principal Secretary, )  
Social Justice and Special Assistance Depart. )  
Hutatma Rajguru Chowk, Madam Kama )  
Road, Mantralaya, Mumbai 400 032. )
2. Dy. Commissioner, Caste Validity Committee, )  
Near Yervada Printing Press, Pune. )
3. The Commissioner, Social Justice Dept. )  
M.S. Church Road, Near GPO, Pune 411001. ) **...Respondents.**

Smt. Punam Mahajan, learned Advocate for the Applicant.

Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

**CORAM : SHRI A.P. KURHEKAR, MEMBER (J)**

**DATE : 04.02.2021.**

**J U D G M E N T**

1. Initially this Original Application was filed for direction to Respondents to release the retirement benefits which were withheld on account of initiation of Departmental Enquiry (D.E.). However, during the pendency of O.A. retirement benefits were extended to the Applicant in view of

completion of D.E., and therefore, grievances in the O.A. are restricted to the interest on belated payment of retirement benefits like Gratuity, Leave Encashment etc. and accordingly claimed interest on belated payment.

2. The Applicant was serving as Research Officer with Caste Validity Committee office, Yerwada, Pune. While he was in service, D.E. was initiated against him in 2016 for alleged misconduct. He retired on 28.02.2013 when the D.E. was pending and it was continued after his retirement. Ultimately, D.E. has been concluded by final order dated 17.07.2019 whereby punishment of 6% deduction in pension for two years has been imposed. The Applicant has challenged the punishment by filing appeal which is subjudice.

3. As stated above, the grievances of the Applicant are restricted to interest on belated payment of Provident Fund, Leave Encashment, GIS, Gratuity and Provisional Pension.

4. Heard Smt. Punam Mahajan, learned Counsel for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

5. Interest on General Provident Fund:-

As per Rule 12 of Maharashtra General Provident Fund, the amount of G.P.F. at the credit of a subscriber at the end of his tenure is payable after six months from attaining the age of superannuation. Learned P.O. fairly concedes that there is no provision to withhold the G.P.F. on account of punishment of D.E. Indeed, G.P.F. contribution being of employee himself which is required to be refunded along with interest, the question of withholding amount at his credit in GPF account for the reason of punishment of D.E. does not arise.

6. As the Applicant admittedly retired on 28.02.2013, the amount of GFP was to be paid after expiration of six months from the date of retirement and as such, it was payable on or before 01.09.2013. However, admittedly it is paid on 13.11.2013 belatedly, obviously due to administrative lapses. The Applicant was deprived from using his own contribution, and therefore, he is definitely entitled for interest on delayed period.

7. Interest on Leave Encashment :

Leave Encashment amount was admittedly paid on 08.02.2018 though the Applicant stands retired on 28.02.2013. However, learned P.O. rightly pointed out that it was withheld in view of pendency of D.E. as provided in terms of G.R. dated 20.06.1996. The perusal of G.R. dated 20.06.1996 reveals that in normal course (except where D.E. is initiated) as Government servant is entitled to interest if the amount of Leave Encashment is paid after a period of one month from the date of retirement. In present case, admittedly D.E. was pending and on that account Leave Encashment was not paid.

At this juncture, it would be apposite to see the conditions of G.R. dated 20.06.1996. In this behalf Clause No.2 is relevant which is as follows :-

“ व्याज प्रदानासाठी विलंबाचा कालावधी :-

(अ) नियमित प्रकरणी (विभागीय चौकशीची प्रकरणे वगळून) शासकीय कर्मचा-याच्या सेवानिवृत्तीच्या/सेवा समाप्तीच्या /मृत्युच्या दिनांकापासून, एक महिन्यांनंतरचा असेल.

(ब) निलंबनाधीन असताना नियम वयोमानानुसार सेवानिवृत्त झालेल्या व अर्जित/अर्धवेतनी रजेच्या संबंधातील रजा वेतनाची सममूल्य रोख रक्कम रोखून ठेवण्यात आली आहे अशा प्रकरणी-

(i) संबंधित कर्मचा-याची विभागीय चौकशीअंती पुर्णपणे निर्दोष मुक्तता झाली असल्यास व त्याचे निलंबन असमर्थनीय ठरविण्यात आले असल्यास त्याच्या सेवानिवृत्तीच्या दिनांकापासून एक महिन्यांनंतरचा असेल.

(ii) संबंधित कर्मचारी दोषी ठरताअसल्यास व त्याचे निलंबन समर्थनीय ठरविण्यात आले असल्यास विभागीय चौकशीसंबंधातील अंतिम आदेश निर्गमित झाल्याच्या दिनांकापासून एक महिन्यांनंतरचा असेल.

(iii) विभागीय चौकशी सुरु असताना मृत्यु पावलेल्या कर्मचा-यांच्या प्रकरणी विभागीय चौकशी संपुष्टात आणणा-या आदेशाच्या दिनांकापासून एक महिन्यांनंतरचा असेल.’’

It is thus explicit that a Government servant is not entitled to Leave Encashment till the conclusion of D.E. Thus, this situation is squarely covered by Clause 2(b) of G.R. dated 20.06.1996. In present case, D.E. was finally decided on 17.07.2019 whereas Leave Encashment was paid on 08.12.2018 . Thus, it was paid much before the decision in D.E.

The submission advanced by learned Counsel for the Applicant that Leave Encashment can be withheld only in case of suspension is totally misconceived. Harmonious reading of G.R. dated 20.06.1996 clearly spells that if D.E. is pending, Leave Encashment cannot be paid. It is obviously for the reason that in case some amount is required to be recovered by way of punishment in D.E. then it can be adjusted while releasing the said amount. Suffice to say, the Applicant’s claim for interest on Leave Encashment is totally untenable.

#### 8. Interest on GIS:

The amount of GIS was admittedly paid to the Applicant on 21.12.2017. In this behalf, reference of G.R. issued by the Finance Department, Government of Maharashtra dated 27.05.1992 is relevant which *inter-alia* specifically states that even in case, departmental proceeding is pending against a Government servant, the amount of GIS should not be withheld and the same is required to be paid within three months from the date of superannuation. This being the position, the amount of GIS would not have been withheld for more than three months from the date of superannuation of the Applicant. Thus, the amount of GIS was due on 01.06.2013 (three months after the date of retirement). Whereas, admittedly, the amount of GIS of Rs.3 Lakhs was paid to the Applicant on 08.02.2018. As such, the payment was delayed by four years and seven months instead of period of

four years and eleven months as claimed. Obviously, the delay was caused due to administrative lapses mainly to take note of the decision recorded in D.E. and to take further follow up action to release the withheld payment. Thus, the Applicant's claim for interest on GIS is just and deserves to be accepted.

9. Interest on Gratuity :

Since the D.E. was pending on the date of retirement, the gratuity was withheld as per Section 130(C) of Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as 'Pension Rules'). In this behalf, reference of G.R. dated 06.05.1991 which *inter-alia* provides for payment of interest on account of delayed payment of gratuity is relevant. Clause 2(l)(c) of G.R. dated 06.05.1991 is material which is as under:-

*"In cases where the Government Servant is not fully exonerated on the conclusion of disciplinary/judicial proceedings, and where the competent authority decides to allow payment of gratuity, in such cases, the payment of gratuity will be deemed to have been fallen due on the date of issue of orders by the competent authority for payment of gratuity. If the payment of gratuity is delayed in such cases, interest will be payable for the period of delay beyond 3 months from the date of issue of the above mentioned orders by the competent authority."*

As such, it is quite clear from G.R. dated 06.05.1991 that interest is permissible only in case if the payment of gratuity is delayed by more than three months from the date of issuance of order of Competent Authority for payment of gratuity. In so far as the facts of present case are concerned, the Accountant General sanctioned gratuity on 30.01.2020. Whereas, the payment was admittedly made on 25.02.2020. This being the position, the claim of interest on gratuity is totally unsustainable.

10. Interest on Pension :

The Applicant has also claimed interest of Rs.4,387/- on pension contending that he was granted only 90% pension, and therefore, entitled to interest on it. The issue of grant of interest on delayed payment of pension is governed by Rule 129(b) of 'Pension Rules'. As per the said provision, where payment of pension authorised after six months from the date when it becomes due interest at the rate applicable to general provident fund shall be paid on the amount of pension in respect of the period beyond six months. As such, interest is payable if payment of pension is delayed beyond six months from the date on which it becomes due. Here, second proviso of Rule 129(B) is material which specifically provides that no interest shall be payable for which provisional pension is paid. In the present matter, admittedly provisional pension was paid. Therefore, question of grant of interest on pension does not survive.

11. The totality of the aforesaid discussion leads me to conclude that the Applicant is entitled to interest on delayed payment of General Provident Fund and GIS since it has been delayed due to sheer administrative lapses as well as negligence on the part of Respondents to take immediate steps for release of the said payment. To this extent, Original Application deserves to be allowed. Hence the following order:-

**ORDER**

- (i) The Original Application is partly allowed.
- (ii) The Respondents are directed to pay interest on amount of G.P.F. for the period from 01.09.2013 till actual date of payment i.e. 13.11.2013 at the rate payable on GPF

- (iii) The Respondents are further directed to pay interest on amount of GIS from 01.06.2013 till actual date of payment i.e. 21.12.2017 at the rate payable for GPF.
- (iv) The interest as directed above be calculated and shall be paid within a period of two months from today.
- (v) No order as to costs.

Sd/-  
**(A.P. KURHEKAR)**  
**Member(J)**

Place : Mumbai  
Date : 04.02.2021  
Dictation taken by : V.S. Mane  
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