

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.159 OF 2021

DISTRICT : PUNE

Hanumant Pandurang Kate,)
Age 60 years, Occ. Retired,)
R/o. 1, Kalthan Road, Irrigation Colony,)
Indapur, Pune 413106.) ... **Applicant**

Versus

The State of Maharashtra,)
Through the Executive Engineer,)
Ujani Dam Management Division,)
Bhimanagar, Taluka-Madha,)
District Solapur 413212.)...**Respondent**

Shri A. R. Joshi holding for Shri V.V.Joshi, Advocate for the Applicant.

Ms S. P. Manchekar, Chief Presenting Officer for the Respondents

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 20.08.2021

JUDGMENT

1. This Original Application is filed for interest on payment of retirement benefits which were withheld for a long time invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

2. Shortly stated facts giving rise to Original Application are as under :-

While the Applicant was serving as Daftar Karkoon on the establishment of Respondent, he stands retired on 30.04.2019 and at

the time of retirement, there was nothing against him in the form of D.E. or criminal prosecution so as to withhold the retiral benefits. The Applicant has, therefore, initially filed O.A.No.1136/2009 for direction to release retiral benefits. When the O.A. was taken up for hearing, it was noticed that there was no legal hurdle in releasing retiral benefits but Applicant was deprived of the same for long time. Original Application was, therefore, disposed of with direction to Respondents to release retiral benefits as per his entitlement within one month and liberty was granted to the Applicant to claim interest on delayed payment in accordance to rules. Accordingly, O.A. was disposed of on 06.01.2020. It is thereafter only the retirement benefits were paid to the Applicant without interest.

3. It is on the above background, this O.A. is filed for interest on following payments :-

Sr.No.	Types of Dues	Date of Payment	Amount in Rs.	Delayed Period
1	Arrears of Pension	22.06.2020	3,52,240/-	1 Year 22 Days
2	Gratuity	26.05.2020	7,85,400/-	1 Year 26 Days
3	Leave Encashment	24.08.2020	3,16,091/-	1 Year 3 Months 24 days

The above position showing the dates of payments is admitted by the Respondents in their reply.

4. Learned Counsel for the Applicant submits that in view of negligence and inordinate delay/lapses on part of the department, the Applicant is entitled to interest on belated payment.

5. Per contra, Ms S.P. Manchekar, learned Chief Presenting Officer submits that payment was delayed because of certain compliance and administrative work.

6. As stated above, there was absolutely no legal hurdle to release retiral benefits of the Applicant within prescribed time provided under the Rules. However, his retirement benefits were withheld for a long period without any justifiable reason.

7. At the very outset, it needs to be stated that, in terms of Rule 120 of Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as 'Rules of 1982' for brevity), the obligation is cast upon the Head of Office to undertake the work of preparation of pension papers two years before the date on which employee is due to retire on superannuation. In this behalf, Rule 120 reads as under:-

"120. Preparation of pension papers.- (1) Every Head of Office shall undertake the work of preparation of pension papers in Form 6 in respect of Non-gazetted Government servant as well as Gazetted Government servant, whose pay and allowances the drawn by him on establishment bills, two years before the date on which they are due to retire on superannuation; or on the date on which they proceed on leave preparatory to retirement, whichever is earlier.

(2) The Audit Officer shall undertake the work of preparation of pension papers in Form 6, two years before the date on which a Gazetted Government servant, other than mentioned in sub-rule (1), above who is due to retire on superannuation or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier.

(3) The time schedule and procedure prescribed in these rules shall be followed by the Audit Officer on whom the responsibility for preparation of pension papers in respect of Gazetted Government servants under sub-rule(2),has been entrusted.

(4) In the case of a Government servant holding a lien or a suspended lien on a Non-gazetted post and holding a Gazetted post in a temporary or officiating capacity at the time of retirement and whose pay and allowances are not drawn by the Head of Office on establishment bills, the Head of Office shall send the service book of the Government servant concerned to the Audit Officer two years in advance of the date of retirement of such Government servant or as soon as possible, if such Government servant is promoted to officiate in a Gazetted post only during the last year of his service, after verifying that the certificate of verification relating to non-gazetted service has been recorded and that the service book is complete in all respects."

8. Thus, duties are cast on Head of the Office to initiate the process for preparation of pension well in advance so that the Government servant should get his retiral benefits without loss of time. The Applicant retired on 30.04.2019 but no such steps in advance were taken for preparing pension papers. Indeed he was constrained to file O.A. No.1136/2019 and it is only after passing of the order by the Tribunal Respondents woke-up and released retiral benefits belatedly.

Interest on arrears of pension

9. As rightly pointed out by learned Counsel for the Applicant, where payment of pension is authorized after six months from the date on which it becomes due, an interest at the rate applicable to General Provident Fund deposits shall be paid on the amount of pension, in respect of the period beyond six months as specifically provided in Section 129-B of Maharashtra Civil Services (Pension) Rules, 1982. As per proviso, no interest shall be payable if delay in payment of pension was attributable to the failure on the part of the Government servant to comply with the proceeding laid down in the Chapter. Here it is not a case that the Applicant did not comply certain procedure and was responsible for delay. Since the Applicant retired on 30.04.2019 pension was due on 01.11.2019. (After six months from retirement). However, admittedly it was paid belatedly on 22.06.2020 without there being any fault on his part.

Interest on gratuity.

10. As per Section 129-A of Pension Rules, 1982, if gratuity is not paid within three months and nothing is attributable to a Government servant, he is entitled to interest at the rate applicable to General Provident Fund deposits for the period by which payment is delayed beyond three months.

Interest on Leave Encashment

11. As per G.R. dated 20.06.1996, if leave encashment is not paid within a month of the retirement, a Government servant shall be entitled to interest at the rate applicable to General Provident Fund. The Applicant retired on 30.04.2019, and therefore, amount of leave encashment was payable on 01.06.2019. However, it was paid on 24.08.2020.

12. As stated above, it is again necessary to point out that no failure or lapses are attributed to the Applicant. He retired on 30.04.2019 and there was no legal hurdle to release retiral benefits. He was compelled to knock the doors of Tribunal by filing O.A. No.1136/2019 and thereafter only in terms of direction given therein retiral benefits were released belatedly. As such, it is obvious that the payment of retiral benefits have been made belatedly due to administrative lapses and negligence on the part of Respondents.

13. In this behalf, reference be made to **2008(6) Mh.L.J. 3492 Yuvraj Nathuji Rodye V/s The Chairman, Maharashtra State Electricity Board**, wherein the Hon'ble High Court held where the payment is not made on due date as per service conditions and rules in that behalf he is entitled to interest and accordingly granted interest at the rate of 8% per annum. Suffice to say, the Respondents cannot escape from its liability to pay interest on delayed period of payment.

14. The totality of the aforesaid discussion leads me to sum that the Applicant is entitled to interest on delayed payment of arrears of pension, gratuity and leave encashment. Hence, the following order:-

ORDER

- (A) Original Application is allowed.
- (B) Respondent is directed to pay interest to the Applicant at the rate applicable to G.P.F. for belated period on arrears of pension, gratuity and leave encashment.
- (C) Respondents shall calculate the period by which the payment was delayed and shall accordingly pay interest within two months from today.
- (D) No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Place : Mumbai
Date : 20.08.2021
Dictation taken by : Vaishali Mane
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