

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.47 OF 2020

DISTRICT : MUMBAI

Shri Sitaram Shankar Panindre.)
Age : 59 Yrs., Retired from Office of)
Respondent and residing at 711,)
Swapnapurti Co-op.Hsg.Soc., Sagar Nagar,))
Mansarovar Complex, Upper Depot Pada)
Parkside, Ghatkopar (W), Mumbai – 86.) **...Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Home Department, Mantralaya,)
Mumbai – 400 032.)
2. Director General of Police.)
Shahid Bhagat Singh Marg, Mumbai.)
3. Commissioner of Police, Mumbai,)
Opp. Crawford Market, Mumbai.) **...Respondents**

Mr. M.B. Kadam, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 25.01.2022

JUDGMENT

1. This Original Application is filed challenging communication dated 16.02.2019 whereby his claim for interest on payment of retiral benefits is rejected.

2. The Applicant stands retired as Police Sub-Inspector from the establishment of Respondent No.3 – Commissioner of Police, Mumbai. He is to retire on 31.12.2016, but retiral benefits i.e. arrears of 6th Pay Commission, arrears of pay and allowances during the period of suspension and leave encashment was paid belatedly. He, therefore, claims interest on delayed payment.

3. Following Chart shows undisputed position of due date of payment, actual date of payment item-wise.

Sr.No.	Particulars	Due date of payment	Date of actual payment
1	Gratuity	01.04.2017	15.05.2018
2	3 installments of 6 th pay arrears of Rs.38,521/- each (To be credited in GPF A/c)	01.06.2011 01.06.2012 01.06.2013	19.04.2018
3	Arrears of suspension period Rs.5,92,653/-	24.07.2017 (order of this Hon'ble Tribunal dated 24.04.2017)	25.02.2018
4	Leave encashment after retirement – Rs.4,58,430/-	24.04.2017	25.05.2018

4. **Gratuity** :

Since Applicant stands retired on 31.12.2016, he was entitled to gratuity which had fallen due after three months from retirement in terms of Section 129-A of Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as 'Pension Rules of 1982' for brevity) which inter-alia provides that where payment is delayed due to administrative lapse, interest at the rate applicable to GPF deposits shall be paid on amount of gratuity in respect of period beyond three months.

5. The submission advanced by the learned Presenting Officer that during the course of service, the Applicant was subjected to punishment of withholding increment, the issue of suspension period was pending, and therefore, it delayed the payment of gratuity is totally irrelevant. True, the Applicant was suspended by order dated 22.03.2011 and was

reinstated in service on 13.10.2014. As such, he was under suspension from 22.03.2011 to 13.10.2014. The suspension was on account of registration of crime under the Prevention of Corruption Act. Admittedly, the Applicant came to be acquitted in criminal case by Judgment dated 23.04.2014. Thereafter, departmental enquiry was initiated and by order dated 20.11.2015, punishment of withholding of one increment without cumulative effect was imposed and period of suspension was to be treated As such. Being aggrieved by it, the Applicant has filed appeal which came to be dismissed. He then challenged the punishment by filing O.A.No.959/2016 which was allowed by this Tribunal on 24.04.2017 whereby punishment was quashed. The Tribunal also directed the Respondents to restore annual increment, which was withheld and also directed to treat suspension period as period spent on duty for all purposes. The order passed by the Tribunal has attained finality. This being the position, the pendency of O.A. at the time of retirement indeed has no relevance with the issue of gratuity. Suffice to say, the issue of gratuity cannot be linked with minor punishment imposed in DE, which was ultimately set aside by the Tribunal. As such, in law, even if the punishment was not quashed, the Applicant was entitled to gratuity as per his entitlement which had fallen due on 01.04.2017. However, gratuity was paid on 15.05.2018 belatedly.

6. Indeed, in terms of Rule 120 of 'Pension Rules of 1982', the preparation of work of pension papers ought to have initiated before two years of the date of retirement. However, no such step as mandated by Rule 120 of 'Pension Rules of 1982' is taken. In other words, there is administrative lapses on the part of Respondents, and therefore, liability to pay interest in terms of Section 129-A of 'Pension Rules of 1982' cannot be denied.

7. **Installment of 6th Pay Commission arrears :**

The Applicant has also claimed interest on belated deposit of arrears of 6th Pay Commission, which were to be deposited on 01.06.2011, 01.06.2012 and 01.06.2013. However, those were deposited on 19.04.2018. Had the amount of arrears deposited in GPF in terms of recommendation of 6th Pay Commission and G.R. by Government in that behalf, the Applicant would have got interest in GPF. However, he is deprived of getting interest, and therefore, his claim for interest on the belated payment at the rate of GPF cannot be denied.

8. **Interest of arrears of pay and allowances of suspension period :**

As stated above, the Applicant was under suspension from 22.03.2011 to 13.10.2014. Initially, he was subjected to punishment of withholding one increment which was later set aside by the Tribunal in O.A.959/2016 by Judgment dated 24.04.2017. True, in Judgment delivered in O.A.959/2016, no time limit was given by the Tribunal. However, Respondents were under obligation to implement the order within reasonable time. The Respondents, however, passed order to release the pay and allowances for suspension period on 19.08.2017. The Tribunal has disposed of O.A. on 24.07.2017. Three months' period could have been reasonable period for releasing pay and allowances of suspension period. However, it has been paid belatedly on 25.02.2018. As such, there is delay in payment of said arrears due to sheer administrative lapses.

9. **Interest on leave encashment :**

Here again, as Applicant retired on 31.12.2016, he was entitled to leave encashment at the time of retirement. In terms of Rule 68 of 'Leave Rules of 1981', the competent authority was under obligation to sanction the cash equivalent to leave salary in respect of earned leave period at his credit on the date of retirement. The Government by G.R. dated 20th June, 1996 clarified that due date for grant of retiral benefits in the matter of leave encashment would be one month from the date of

retirement. The issue of minor punishment which was ultimately set aside by the Tribunal was not at all relevant for not granting leave encashment. Since Applicant stands retired on 31.12.2016, the amount of leave encashment had fallen due on 01.02.2017. However, admittedly, it was paid on 25.05.2018 belatedly and the Applicant is deprived of from getting interest on the said amount.

10. It is thus obvious that Applicant is deprived of interest due to sheer administrative lapses on the part of Respondents. The impugned order dated 16.12.2019 denying the interest is, therefore, clearly unsustainable in law.

11. The totality of aforesaid discussion leads me to conclude that Applicant's claim for grant of interest on delayed payment is indefeasible and Respondents are liable to pay interest on the belated payment at the rate of GPF. Hence, the order.

ORDER

- (A) The Original Application is allowed.
- (B) The impugned communication dated 16.02.2019 is quashed and set aside.
- (C) The Respondents are directed to pay interest on gratuity, installments of 6th Pay Commission arrears, arrears of pay and allowances for suspension period and leave encashment at the rate of GPF for the period by which it is belated, as shown in the Chart. It be accordingly calculated and paid within two months from today.
- (D) No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai
Date : 25.01.2022
Dictation taken by :
S.K. Wamanse.

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