

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.479 OF 2022

DISTRICT : PUNE

Sub.:- Recovery

Shri Kishor Papa Salunkhe.)
Age : 61 Yrs, Retired as Safai Kamgar,)
Residing Room No.4, Jai Jui Building,)
Shastri Nagar, Opp. Sahyadri Hospital,)
Yerwada, Pune – 411 006.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Principal Secretary,)
Social Justice & Special Assistance)
Department, Mantralaya,)
Mumbai – 400 032.)
2. Accountant General,)
Office of Principal Accountant)
General (A&E)-1, 2nd Floor,)
Pratishtha Bhavan, New Marine)
Lines, 101, Maharshi Karve Road,)
Churchgate, Mumbai – 400 020.)
3. The Commissioner,)
Social Welfare, 3-Church Road,)
Agarkar Nagar, Pune – 411 001.)
4. Assistant Commissioner)
(Establishment), Social Welfare)
Commissionerate, M.S, 3-Church)
Road, Pune.)...**Respondents**

Smt. Punam Mahajan, Advocate for Applicant.

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

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 25.08.2023

JUDGMENT

1. The Applicant has challenged the order passed by Respondent No.2 dated 03.09.2019 whereby his gratuity of Rs.2,14,005/- is adjusted against outstanding dues and remaining outstanding dues of Rs.6,00,362/- were ordered to be adjusted from pension and also claimed relief of refund of Rs.8,14,367/- (Rs.2,14,005/- + 6,00,362/-), invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. The Applicant was Peon on the establishment of Respondent No.3 – Commissioner of Social Welfare, Pune and took voluntary retirement on 31.08.2017. While in service, Room No.4 was allotted to him, but it was not vacant, and therefore, he occupied Room No.7. However, Applicant was allegedly occupied Room No.7 as well as Room No.8. Even after retirement, he continued the possession. He vacated it in 2019. It is on this background, Respondent Nos.3 and 4 slapped recovery of RS.8,14,367/- for unauthorized retention of quarter and sent the proposal to Accountant General for adjustment of gratuity of Rs.2,14,005/- towards penal charges and for recovery of remaining amount of Rs.6,00,362/- from pension. The Applicant also paid amount of Rs.83,800/- in cash.

3. In O.A, the Applicant contends that he was in possession of only one quarter and the recovery of penal charges, as calculated by the Respondents is totally illegal.

4. The subsequent development in the matter is that during the pendency of OA, Respondent No.3 – Commissioner of Social Welfare, Pune appointed Committee to ascertain the factual aspect of the matter as to whether Applicant was really in possession of two quarters.

Accordingly, Committee submitted report and based upon it, the Respondent No.3 passed order on 09.08.2023 along with Affidavit, which is at Page Nos.172 to 176 of Paper Book. Significantly, as per order passed by Respondent No.3, there is no such record to establish that the Applicant was in possession of quarter Nos.7 and 8 simultaneously. The Respondent No.3, therefore, recalculated the penalty charges for quarter No.7 only and levied correct charges from 1992 which was not paid by the Applicant. Ultimately, Respondent No.3 came to the conclusion that the amount recoverable from the Applicant comes to 3,76,543/- only.

5. Thus, as per order dated 09.08.2023 passed by Commissioner of Social Welfare, Pune, an amount of Rs.83,800/- paid by the Applicant in cash and amount of Rs.3,04,500/- is liable to be refunded.

6. The learned Advocate for the Applicant accepts the amount to be refunded to the Applicant as per order dated 09.08.2023. However, she claimed interest on the said amount *inter-alia* contending that the amount is illegally recovered over and above the correct liability towards penal rent of the quarter.

7. The learned Presenting Officer opposed grant of interest. He submits that the Department is ready to refund of Rs.83,800/- and Rs.3,04,500/- as concluded by Commissioner of Social Welfare, Pune in his order dated 19.08.2023.

8. The perusal of record further reveals that for three years, entire amount of pension was forfeited and adjusted against the liability, which is *per se* illegal. The entire amount of pension cannot be forfeited and adjusted in such a manner. Be that as it may, since now Respondents have recalculated correct amount to be recovered from the Applicant and agreed to refund Rs.83,800/- and Rs.3,04,500/-, the controversy is set at rest and O.A. deserves to be disposed of.

9. Insofar as interest part is concerned, apparently, an excess amount has been recovered from the Applicant and he is deprived of utilizing his own retiral benefits for a long period. This being so, the claim of the Applicant who retired as Class-IV employee for interest deserves to be accepted.

10. Considering the facts and circumstances of the matter, I am inclined to grant 6% interest on the amount payable to the Applicant from the date of filing of O.A. i.e.15.09.2020 till the date of actual payment. Hence, the following order.

ORDER

- (A) The Original Application is disposed of in following terms :-
- (i) The Respondents are directed to refund the amount of Rs.83,800/- and Rs.3,04,500/- with interest at the rate of 6% p.a. from the date of filing of O.A. (15.09.2020) till the date of actual payment and it be paid within a month from today.
 - (ii) It is clarified that if there is mistake of calculation of the amount of either of the parties, it is open for correction and it be done by informing the same to the Applicant.
 - (iii) No order as to costs.

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

Mumbai
Date : 25.08.2023
Dictation taken by :
S.K. Wamanse.

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