

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.547 OF 2017

DISTRICT : THANE

Shri Chandrakant Krishna Yerunkar ,)
Occ. Retired as Ward Boy from the office)
Of ESIS Hospital, Satpur, Trymbak Road)
Nashik. R/o. Shri Ganesh Society, Umesh) ... **Applicant**
Nagar, Room No.5, Retibundar Cross Rd.)
Dombivali (W), Dist. Thane.)

Versus

1. The Commissioner / Director (Admn.))
Employees State Insurance Scheme,)
Having office at Panchdeep Bhawan,)
6th floor, N. M. Joshi Marg, Lower Parel,)
Mumbai 400 013.)
2. The Medical Superintendent, ESIS)
Hospital, Satpur, Trymbak Road, Nashik.)...**Respondents**

Shri Arvind V. Bandiwadekar, Advocate for the Applicant.

Smt. Kranti Gaikwad, Presenting Officer for the Respondents

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 06.09.2021.

JUDGMENT

1. The Applicant has filed present Original Application claiming interest on delayed payment of gratuity and pension *inter-alia* contending that due to administrative lapses and negligence on the part of Respondents, he is deprived of utilizing his retiral benefits for a long period.

2. Heard Shri Arvind V. Bandiwadekar, learned Counsel for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

3. Admittedly, the Applicant stands retired as Ward Boy on 30.07.2015, from the establishment of Respondent No.2- Medical Superintendent, ESIS Hospital, Satpur, Trymbak, Nashik. There was no legal hurdle for releasing retiral benefits in the nature of D.E. or criminal proceeding against him. As such, the Respondents were required to release gratuity and pension within stipulated period. Insofar as gratuity is concerned, as per Rule 129(A) of Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as 'Rules 1982' for brevity) where gratuity is delayed for the period beyond three months and delay is attributed to administrative lapses interest at the rate applicable to General Provident Fund shall be paid on the amount of gratuity. Whereas, as regard pension, in terms of Rule 129 (B) of 'Rules 1982' where payment of pension is authorized after six months from the date when it becomes payable, the interest is liable to be paid in respect of period beyond six months at the rate applicable to General Provident Fund.

4. The Applicant retired on 31.07.2015, therefore, gratuity was payable on 01.11.2015 in terms of Rules 129A of 'Rules 1982' and pension was payable on 01.02.2016 in terms of Rule 129B of Rules 1982 .

5. Admittedly, the gratuity of Rs.1,72,252/- was paid by cheque dated 18.03.2016 and remaining gratuity of Rs.20,015/- was paid by cheque dated 02.01.2017. Whereas pension was for the period from 01.08.2015 to 31.01.2016 was granted by cheque dated 11.03.2016.

6. Smt. Kranti Gaikwad, learned Presenting Officer in reference to Affidavit in Reply submits that the Applicant was telephonically

informed to collect the cheques but he failed to collect the cheques. Thereafter, letter was issued on 22.03.2016 which Applicant refused to accept. Therefore, he is not entitled to claim interest.

7. Perusal of record reveals that the Respondent No.2 by letter dated 22.03.2016 informed to the Applicant that cheques were prepared on 11.03.2016 and 18.03.2016 but he did not collect the same. Letter was sent by RPAD, however, the Applicant refused to accept the notice as seen from postal acknowledgement at page no.44 of PB.

8. Thus, what transpires from the record that the cheque of provision pension was prepared on 11.03.2016 and cheque of gratuity was prepared on 18.03.2016 and letter was issued on 22.03.2016 informing the Applicant to collect the same but he refused to accept the communication.

9. Here material to note that even if the Applicant has refused to accept the communication dated 22.03.2016, pertinent to note that the cheques itself were prepared much later i.e. beyond the requisite permissible period for payment. In view of Rules discussed above, the gratuity was to be paid on or before 01.11.2015. However, cheque of gratuity was prepared on 18.03.2016 which was beyond the requisite period. Whereas, pension was payable on 01.02.2016 but cheque was prepared on 11.03.2016 which is also marginally beyond due date.

10. Indeed, in terms of Rule 120 of Maharashtra Civil Services (Pension) Rules 1982, the head of the department was under obligation to start preparation of process two years before the date on which employee is due to retire on superannuation so that all the paper work is done before due date of retirement and retiral benefits are accordingly paid within requisite period as contemplated under Rule 129-A and 129-B of 'Rules 1982'. If it is not complied with and

payment is made beyond stipulated period, it obviously due to administrative lapses on the part of department, and therefore, liability of interest for the period beyond stipulated period cannot be escaped.

11. In the present case, as stated above, the cheques itself were prepared much beyond the date on which payment of gratuity and pension was due and payable. It is obviously due to administrative lapses on the part of department, and therefore, the Applicant is entitled to pay interest for the period beyond stipulated period.

12. In view of above, there is no escape from the conclusion that the Respondents are liable to pay interest at the rate of General Provident Fund in respect of period beyond stipulated period and to that extent O.A. deserves to be allowed. Hence the following order :-

ORDER

(A) Original Application is partly allowed

(B) Respondents are directed to calculate the interest at the rate of General Provident Fund on amount of gratuity from 01.11.2015 to 18.03.2016 and shall also calculate the interest at the rate of General Provident Fund on provisional pension from 01.02.2016 to 11.03.2016 and the interest accordingly be paid to the Applicant within six weeks from today.

(C) No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Place : Mumbai
Date : 06.09.2021
Dictation taken by : Vaishali Mane

