

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 955 OF 2018**

DISTRICT: - AURANGABAD.

**Madhukar Kisanrao Sapdhare,**  
Age : 60 years, Occu. Pensioner,  
R/o. 495-F Sector, N-1 Cidco,  
Aurangabad.

**.. APPLICANT.**

**V E R S U S**

- 1) The State of Maharashtra,  
[Deleted on 13.12.2018]**
- 2) The Secretary,**  
Department of Water Conservation  
Mantralaya, Mumbai-32.
- 3) The Accountant General,**  
Maharashtra-II Nagpur  
Nagpur 44001
- 4) The Chief Executive Officer,**  
Zilla Parishad, Aurangabad.
- 5) The Executive Engineer,**  
(Irrigation) Zilla Parishad,  
Aurangabad.

**.. RESPONDENTS.**

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**APPEARANCE** : Shri D.R. Irale Patil, learned Advocate  
for the applicant.

: Shri B.S. Deokar – learned Presenting  
Officer for the respondent Nos. 1 to 3.

: Shri Shrimant Mundhe, learned  
Advocate for respondent Nos. 4 & 5.

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**CORAM** : **V.D. DONGRE, MEMBER (J)**

**DATE** : **30.11.2021**

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**ORDER**

The present Original Application is filed by the applicant invoking the jurisdiction under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs: -

*“B) By quashing and setting aside the impugned communication dated 9.10.2017 issued by A.G. office, kindly direct the respondent no. 3 to accept the justification given by the respondent no. 4 vide letter dated 18.12.2017 in reply to the query made by A.G. office on 09.10.2017 & accept Form No. A, already submitted along with pension sets on 11.04.2016 & issue PPO of revised pensions, gratuity, communication (after deduction the amount paid in the pension pay) based on the proposed pension & pensionary benefits calculated on the basis of last pay drawn duly recommended by the Zilla Parishad.*

*B-1) The Hon’ble Tribunal may be pleased to pass necessary order and grant 12% interest on delayed pensionary benefits which includes pension, gratuity, commutation of pension, encashment of leave salary and GPF and direct the respondents to make the payment of interest from the day it become due till realization.*

*B-2) The respondent No. 3 & 4 may kindly be directed under appropriate order that the remaining payment of GIS and commutation (on approval of A.G. should be paid) with interest as found just.”*

2. However, during the course of the arguments, learned Advocate for the applicant made statement across the bar that the applicant is not pursuing with the relief ‘B’, which is

pertaining to impugned communication dated 9.10.2017 issued by A.G. office intending to curtail the amount of pension. In view of the same, the matter is proceeded only for the relief 'B-1' and 'B-2', which speak of interest on delayed pensionary benefits, which includes pension, gratuity, commutation of pension, encashment of leave salary and GPF and direction regarding payment of GIS and commutation with interest.

3. The facts in brief giving rise to the application for remaining prayers as above can be summarized as follows: -

(a) The applicant initially came to be appointed under Zilla Parishad, Aurangabad as a Junior Engineer on 3.4.1980. After completing successful tenure of 5 years, the applicant was granted status of Sectional Engineer (Gazetted) (Junior) from 1.4.1986. The said posts were in the category of 'C' employees of the Zilla Parishad. As per order dated 24.5.2011 the applicant was promoted as Deputy Engineer (Gazetted). He was posted under Zilla Parishad, Jalna as per posting order dated 31.5.2011 (Annexure 'A-1') issued by the Chief Engineer, Minor Irrigation (Local Sector), M.S. Pune-6. Before that the applicant was given benefit of "आश्वासित प्रगती योजना" under order dated 5.5.2004 issued by the Chief Executive Officer, Zilla Parishad, Aurangabad

w.e.f. 1.8.2001. After promotion the applicant joined as a Deputy Engineer in Zilla Parishad, Jalna on 30.6.2011. In the year 2015 the applicant was transferred from Zilla Parishad, Jalna to Zilla Parishad, Aurangabad.

(b) Meanwhile the applicant was given benefit of second time bound promotion under the order dated 31.8.2009. Thereafter, the applicant made application for voluntary retirement through Executive Engineer to Government w.e.f. 1.3.2016. The Government accepted the application made by the applicant for voluntary retirement vide order dated 1.3.2016 (Annexure 'A-2'). In view of the same, the applicant stood retired from that date.

(c) Thereafter, the applicant prepared pension papers and submitted the same to the respondent No. 4 i.e. the Chief Executive Officer, Zilla Parishad, Aurangabad and submitted the said pension proposal along with requisite documents vide proposal dated 11.4.2016 (Annexure 'A-3') in four sets. Thereby the applicant claimed commutation of 40% pensionable pay. However, for some reasons the pension proposal was not forwarded further to the respondent No. 3. Respondent No. 3, as well as, respondent No. 4 did not process the pension papers. In view of the same, the applicant was deprived of the pensionary benefits in time and was made to suffer. The applicant made number of representations from May, 2016 to

September, 2017 (Annexure 'A-6' collectively) pursuing claim of his pensionary benefits.

(d) Thereafter, after lapse of 15 months period Zilla Parishad forwarded his pension papers vide proposal dated 18.9.2017 (Annexure 'A-7') to the office of Accountant General, Nagpur. Thereafter, the office of Accountant General raised objection about not submitting the papers in time and that the proposal was not in prescribed form. Objections were also raised about the pay fixation and proposal for curtailing down original pension, but now the applicant is not pressing the requisite relief in that regard and, therefore, it is not necessary to narrate those facts. In nutshell the grievance of the applicant is that he got the amount of pensionary benefits belatedly and, therefore, he is entitled for interest on delayed payment in terms of the Rule 129 (A) and 129 (B) of the Maharashtra Civil Services (Pension) Rules, 1982 and also he is entitled for the amount of GIS. The applicant has tabulated his claim as follows: -

Sr.No.	Particulars	Amount	Due Date	Actual date of payment
1.	Gratuity Amount	5,86,740/-	1.3.2016	23.3.2018
2.	Pension	12,77,880/-	31.3.2016	28.11.2018
3.	Leave Encashment	7,78,760/-	1.3.2016	25.7.2016
4.	GPF	7,72,917/-	30.9.2016	12.12.2017
5.	GIS	1,40,122/-	1.3.2016	Not received

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Hence, this Original Application.

4. Affidavit in reply on behalf of respondent No. 3 i.e. the Accountant General (A & E)-II, Nagpur, is filed by one Sandeep Puruhottam Waikar working as Assistant Accounts Officer in that office. He denied all the adverse contentions raised in the present Original Application. He has specifically contended that the office of Accountant General has to act after receipt of pension proposal. It is further specifically contended that after receipt of the pension proposal in September, 2017, the respondent No. 3 has acted immediately in accordance with law and raised certain objections about the pay fixation and the due amounts are paid to the applicant well within prescribed periods of limitation from the receipt of pension proposal and, therefore, the claim of the applicant is liable to be dismissed.

5. Affidavit in reply on behalf of respondent Nos. 4 & 5 is filed by Shrichand Parshram Rathod, Executive Engineer, (Irrigation) Zilla Parishad, Aurangabad. It is denied that the pension proposal was not submitted to the office of Accountant General in time. In fact, there were lapses on the part of the applicant, as well as, respondent No. 2, in not furnishing the necessary requisite information required for

submitting pension papers. There was no negligence or deliberate lapse on the part of these respondents in submitting the pension papers belatedly. In view of the same, the claim of the applicant is liable to be dismissed.

6. The applicant filed affidavit in rejoinder and denied all the adverse contentions raised in the affidavit in reply and contended that he had prepared the pension proposal immediately and had submitted it to respondent No. 4, but the same was not forwarded by respondent No. 4 in time to the office of respondent No. 3, which was to pay the pensionary benefits to the applicant.

7. I have heard the arguments advanced by Shri D.R. Irale Patil, learned Advocate for the applicant on one hand and Shri B.S. Deokar, learned Presenting Officer for the respondent Nos. 1 to 3, and Shri Shrimant Mundhe, learned Advocate for respondent Nos. 4 & 5 on the other hand.

8. Considering the facts of the case the controversy revolves around the payment of interest on amount of delayed payment of pensionary benefits and non-payment of GIS amount. In view of the same, the matter will have to be

considered in the background of Rules 129-A & 129-B of the Maharashtra Civil Services (Pension) Rules, 1982. Even there is Government Resolution dated 24.4.1995 issued by the Finance Department (Annexure 'A-10') regarding payment of interest on delayed payment, thereby it is not necessary to refer the matter to the Finance Department for payment of interest. Rules 129-A and 129-B are reproduced hereinunder for ready reference.

**“129-A. Interest on delayed payment of gratuity.**

*(1) Where the payment of retirement gratuity or death gratuity, as the case may be, has been delayed beyond the period of three months from the date retirement or death, and it is clearly established that the delay in payment was attributable to administrative lapse, an interest at rate applicable to General Provident Fund deposits shall be paid on the amount of gratuity, in respect of period beyond three months:*

*Provided that, no interest shall be payable if the delay in payment of such gratuity was attributable to the failure on the part of the Government servant to comply with the procedure laid down in this Chapter :*

*Provided further that no interest shall be payable in the case where a provisional gratuity is paid.*

*(2) Every case of delayed payment of retirement gratuity or death gratuity, as the case may be, shall suo motu, be considered by the concerned Administrative Department, and where the Department is satisfied that*



*the delay in the payment of such gratuity was caused on account of administrative lapse, that Department shall sanction payment of interest after obtaining the admissibility report, in this behalf, from the Accountant General (Accounts and Entitlement), Maharashtra, Mumbai or Nagpur, as the case may be. The approval of the Finance Department for the payment of such interest shall not be necessary.*

*(3) In all cases, where interest has been paid on retirement gratuity or death gratuity, as the case may be, due to administrative lapse, the concerned Administrative Department shall fix the responsibility and take disciplinary action against the Government servant or servants concerned, including the concerned officer, who are found responsible for the delay in the payment of such gratuity and recover the amount of interest required to be paid from the Government servant or servants concerned including the concerned officer who are found responsible for the delay in the payment of such gratuity.]*

*(4) If as a result of Government's decision taken subsequent to the retirement of a Government servant, the amount of gratuity already paid on his retirement is enhanced on account of-*

*(a) grant of pay higher than the pay on which gratuity, already paid was determined, or*

*(b) liberalization in the provisions of these rules from a date prior to the date of retirement of the Government servant concerned, no interest on the arrears of gratuity shall be paid.]”*

**“129-B. Interest on delayed payment of pension.-**

*(1) Where the payment of pension or family pension authorized after six months from the date when its payment became 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:*

*Provided that, no interest shall be payable if the delay in payment of pension was attributable to the failure on the part of the Government servant to comply with the procedure laid down in the Chapter :*

*Provided further that, no interest shall be payable for the period for which a provisional pension is paid. In case of Government servant to whom provisional pension is sanctioned an interest as provided shall be paid after a period of six months from the cessation of provisional pension till the final pension is authorized.*

*(2) Every case of delayed pension or family pension, as the case may be, shall suo motu, be considered by the concerned Administrative Department, and where the Department is satisfied that the delay in the payment of such pension was caused on account of administrative lapse, that Department shall sanction payment of interest after obtaining the admissibility report in this behalf from the Accountant General (Accounts and Entitlement), Maharashtra, Mumbai or Nagpur, as the case may be. The approval of the Finance Department for the payment of such interest shall not be necessary.*

*(3) In all cases, where interest has been authorized on pension or family pension, as the case may be, due to administrative lapse, the concerned Administrative Department shall fix the responsibility and take disciplinary action against the Government servant or servants concerned, including the concerned officer, who are found responsible for the delay in the payment of such pension and recover the amount of interest required to be paid from the Government servant or servants concerned including the concerned officer who are found responsible for the delay in the payment of such pension.]*

*(4) If as a result of Government's decision taken subsequent to the retirement of a Government servant, the amount of pension already paid on his retirement is enhanced on account of-*

*(a) grant of pay higher than the pay on which pension, already paid was determined, or*

*(b) liberalization in the provisions of these rules from a date prior to the date of retirement of the Government servant concerned, no interest on the arrears of pension shall be paid.]”*

9. In the background of these rules, if the facts of the present case are considered from the pleadings on record, it is not disputed that the pension papers were prepared by the applicant himself and submitted to the office of respondent No. 4. The copy of the said pension proposal is at Annexure 'A-3'. The requisite acknowledgment from the office of respondent No. 4 appears on it. From the contentions raised

on behalf of the respondent Nos. 4 & 5 more particularly it can be seen that no plausible explanation is given by them as to why it took about 15 months to submit proposal to the office of respondent No. 3. Supposedly explanation sought to be given by them blaming the applicant and respondent No. 2 seems to be totally misplaced and misconstrued. In the circumstances, the negligence and/or lethargy on the part of respondent Nos. 4 & 5 in not giving the final touch to the pension proposal and forwarding it to respondent No. 3 is apparent. The delay is definitely attributable to the administrative lapse of respondent Nos. 4 & 5. Rule 129-A of Pension Rules speaks about delay beyond three months in respect of payment of gratuity and Rule 129-B speaks about payment of pension after six months. As per the said rules the applicant shall be entitled for interest at the prevailing rate of interest on General Provident Fund deposits. The Government Resolution dated 24.4.1995 was also required to be scrupulously followed by the said respondents. In view of the same, in my opinion, it would be just and proper to grant interest @ 9% on the delayed payment of pensionary benefits. It is also not disputed that the amount of GIS is not paid to the applicant. Therefore, the applicant would be entitled for

GIS amount together with interest @ 9% thereon. In view of the same, I proceed to pass the following order: -

**ORDER**

The present Original Application is allowed in the following terms: -

(a) The respondents do pay simple interest @ 9% p.a. on the amount of gratuity for the period beyond 3 months till actual payment and on commuted pension, leave encashment and GPF for beyond 6 months till the date of actual payment and requisite amount of GIS together with interest @ 9% p.a. for beyond six months till it's actual payment.

(b) Accordingly, the present Original Application stands disposed of with no order as to costs.

**MEMBER (J)**

**PLACE : AURANGABAD.**

**DATE : 30.11.2021**

O.A.NO.955-2018(SB-Pensionary benefits)-HDD-2021