

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD.

**ORIGINAL APPLICATION NO. 104 OF 2016**

**DIST. : AURANGABAD.**

Dr. Laxmikant S/o. Nanasaheb Dolas,  
Age : 63 years, Occ. Nil (Pensioner),  
R/o R/28, H. No. 24, "Abhijit",  
MHADA Colony, N-7, CIDCO,  
Aurangabad.

.. APPLICANT.

**V E R S U S**

1. The State of Maharashtra  
Through its Secretary,  
Public Health Department,  
Maharashtra State, Mantralaya,  
Mumbai 400 032.

2. The Deputy Director,  
Health Services,  
Aurangabad Circle,  
Aurangabad.

.. RESPONDENTS.

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APPEARANCE :- Shri Avinash S. Deshmukh, learned  
Advocate for the Applicant.

: Shri I.S. Thorat, learned Presenting  
Officer for the respondents.

**CORAM : HON'BLE SHRI B.P. PATIL,  
MEMBER (J)**

**DATE : 14<sup>TH</sup> JUNE, 2017.**

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**O R A L O R D E R**

1. Heard Shri Avinash S. Deshmukh – learned Advocate  
for the applicant and Shri I.S. Thorat – learned Presenting  
Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant is serving in the cadre of District Health Officers (DHOs) at the time of his retirement on attaining the age of superannuation on 30.6.2010. He was working as Assistant Director, Health Services (Malaria), Aurangabad at the time of his retirement. It is his contention that initially he was granted provisional pension for the period commencing from 1.7.2010 to 31.12.2010. Thereafter, his regular pension has not been sanctioned as the proposal has not been forwarded to the Accountant General – II, Nagpur by the respondents. Not only this, but he has received notice regarding recovery of amount from the pensionary benefits i.e. the gratuity amount to be paid to him, on the ground that Departmental Enquiry has been initiated against him and his pension papers could not be forwarded to the office of Accountant General, Nagpur till conclusion of the Departmental Enquiry. As the pension has not been sanctioned and pensionary benefits have not been given to the applicant, he approached this Tribunal by filing Original Application No. 325/20014, praying for issuing

directions to the respondents to process and finalize his pension case. The respondents appeared in the matter and filed their affidavit in reply. The Original Application came to be disposed of on 11.9.2014 by this Tribunal by passing the detailed order. Thereafter, the pension papers of the applicant had been forwarded to the office of Accountant General and accordingly pension has been sanctioned to him. Thereafter, he received monthly pension from 01.01.2011 to 31.12.2014 on 09.03.2015. The delay was caused due to the inaction on the part of the respondents while making payment of pension to the applicant for the aforesaid period. Therefore, the applicant has made representations dated 16.03.2015 and 22.07.2015 (Annexures "A-5" & "A-6" respectively, page Nos. 33 & 34 of the paper book of the O.A.) with the respondents claiming interest on delayed payment of pension for the period commencing from 01.07.2010 to 31.12.2010, but the respondents have not considered the said representations/applications. Therefore, he filed the Original Application and prayed to grant interest on the delayed payment of monthly pension for the period from

1.1.2011 to 28.2.2015. Learned Advocate for the applicant has submitted that the respondents have withheld the pension of the applicant on the ground that proposal for initiating Departmental Enquiry has been sent to the higher authority, but the proposal was time barred and, therefore, approval had not been granted by the higher authority and Departmental Enquiry has not been initiated against the applicant. He has submitted that the respondents deliberately made delay in making the payment of monthly pension by not forwarding the pension papers of the applicant to the office of Accountant General. Therefore, the applicant is entitled to get the interest on the delayed payment of pension in view of the provisions of Rule 129 (B) (1) of the Maharashtra Civil Services (Pension) Rules, 1982.

3. Learned Presenting Officer has submitted that there was no intentional delay on the part of the respondents in making the payment of pension to the applicant. He has submitted that in the year 2010 the respondent No. 2 sent the proposal for initiation of Departmental Enquiry

against the applicant and the proposal was pending and, therefore, pension papers of the applicant had not been forwarded by the respondent No. 2 to the Accountant General, Nagpur. He has submitted that thereafter the higher authority i.e. respondent No. 1 decided not to initiate the Departmental Enquiry against the applicant as it was not possible in view of the provisions of Rule 27 (2) (b)(ii) of the Maharashtra Civil Services (Pension) Rules, 1982. He has submitted that the said position was made clear by the respondents in the earlier O.A. No. 325 of 2014 and, therefore, this Tribunal has decided that Original Application on the basis of submission made by the respondents and directed the respondent No. 2 to process and finalize the pension case of the applicant and further pay him pension and pensionary benefits within a period of three months from the date of order i.e. from 11.07.2014. He has submitted that thereafter respondent No. 2 has processed and finalized the pension case of the applicant by forwarding the pension papers to the Accountant General within a time given. Accordingly, the Accountant General sanctioned the regular pension to the

applicant. He has submitted that there was no intentional or deliberate delay on the part of the respondents and delay has occurred as the proposal for initiation of Departmental Enquiry has been sent by the respondent No. 2 to respondent No. 1. Therefore, he prayed to reject the present Original Application.

4. On going through the documents filed by both the parties, it reveals that the applicant retired from Government service on attaining his age of superannuation on 30.6.2010. Initially provisional pension has been sanctioned to the applicant w.e.f. 1.7.2010 to 31.12.2010. Thereafter, pension papers have not been forwarded by the respondent No. 2 to the Accountant General. The applicant made several representations to the respondent No. 2 for grant of pension, but pension papers were not forwarded to the Accountant General, Nagpur, and therefore, pension was not sanctioned. On the contrary, respondent No. 1 by communication dated 1.2.2014 (Annexure 'A-3', page-26 of paper book of O.A.), informed the applicant that

gratuity amount of Rs. 6,75,912/- had been paid to him though it was not admissible to him. Therefore, he directed the applicant to deposit the said amount. He had further informed the applicant that a proposal for initiation of Departmental Enquiry against him was pending and, therefore, his pension papers would not be forwarded to the Accountant General, Nagpur, till conclusion of the Departmental Enquiry. Thereafter, the applicant approached this Tribunal by filing O.A. No. 325/2014 with a prayer to direct the respondents to process and finalize his pension papers. The said O.A. was decided on 11.07.2014 and it was directed to the present respondent No. 2 and Accountant General, Nagpur, to process and finalize the applicant's pension case and to pay the pension and pensionary benefits to him within a period of three months from the date of order i.e. 11.07.2014, as the respondent No. 2 has submitted that no Departmental Enquiry was possible against the applicant in view of the provisions of Rule 27 (2) (b)(ii) of the Maharashtra Civil Services (Pension) Rules, 1982.

5. The applicant made representations dated 16.03.2015 and 22.07.2015 (Annexures "A-5" & "A-6" respectively, page Nos. 33 & 34 of the paper book of the O.A.) and requested to make payment of interest on delayed payment of pension for the period commencing from 1.1.2011 to 28.2.2015, but the respondents had not considered the representations made by the applicant. The documents on record shows that on account of lapses on the part of respondent Nos. 1 & 2, delay has been caused in sanctioning the payment of pension to the applicant. In fact, no enquiry was initiated against the applicant, but the respondent No. 2 by his communication dated 1.2.2014 informed the applicant that enquiry was proposed against him. He has informed the applicant that pension papers would not be processed and sent to the Accountant General till conclusion of the enquiry.

6. Learned Presenting Officer and learned Advocate for the applicant state that alleged charges against the applicant were in respect of events took place prior to the year 2005 and it was alleged that the applicant had not



taken necessary steps for complying the order of the Hon'ble High Court passed in writ petition Nos. 2667/2006 and 5170/2007 and he was negligent in discharging his duties. It shows that when the departmental enquiry was proposed and the proposal was forwarded by the respondent No. 2 to the higher authority, the res. No. 2 was aware of the fact that he was sending proposal in respect of the incident/events took place prior to the year 2005 and it was time barred in view of the provisions of Rule 27 (2) (b) of the Maharashtra Civil Services (Pension) Rules, 1982. In spite of that he sent the proposal for initiation of D.E. against the applicant to his higher authorities. And thereafter the res. No. 2 informed the applicant that his pension papers would not be possible to forward to the Accountant General because of pendency of the proposal in respect of departmental enquiry. Because of this act and inaction on the part of the res. No. 1, the delay has been caused in processing pension papers of the applicant. Only because of the directions of this Tribunal in O.A. no. 325/2014, the pension papers have been processed by the res. No. 2 and

it has been finalized by the Accountant General. In that proceeding the res. No. 2 has specifically had made a statement before this Tribunal that, it was not possible to initiate departmental enquiry against the applicant in view of the provisions of Rule 27 (2) (b) (ii) of the Maharashtra Civil Services (Pension) Rules, 1982. All these facts show that, there was intentional delay on the part of the respondents in sending the pension papers of the applicant and, therefore, the applicant could not able to get regular pension in time. There was delay in getting the pension by the applicant for the period commencing from 1.1.2011 to 28.2.2015 and finally the applicant got the pension on 9.3.2015. Therefore, the applicant is entitled to claim the interest on the delayed payment of pension in view of the provisions of Rule 129 (B) of the Maharashtra Civil Services (Pension) Rules, 1982. In fact, the res. No. 2 might have sue moto considered the said aspect as regards payment of interest on the delayed payment of pension on being satisfied and might have sent the proposal in that regard to the Accountant General in view of Rule 129 (B) (2) of the Maharashtra Civil Services

(Pension) Rules, 1982, but the res. No. 2 has not exercised his discretion. Not only this, but he has not initiated action against the concerned responsible employee / officer in view of the provisions of rule 129 (B) (3) of the Maharashtra Civil Services (Pension) Rules, 1982 for lapses on their part for causing delay in payment of pension to the applicant. Therefore, in my opinion, the applicant is entitled to get interest on the delayed payment of pension for the period commencing from 1.1.2011 to 28.2.2015 at the rate applicable to the G.P.F. amount as on today.

7. In the above said facts and circumstances, the O.A. deserves to be allowed. Consequently, the original application is allowed. The res. Nos. 1 & 2 are directed to pay interest on the delayed payment of pension to the applicant for the period from 1.1.2011 to 28.2.2015 at the rate applicable to the G.P.F. amount as on today, within a period of 2 months from the date of this order.

8. The res. No. 1 is further directed to fix the responsibility of the concerned Government employee /

officer for not making payment of pension and pensionary benefits to the applicant within time and take disciplinary action and recover the said amount of interest payable to the applicant, from the said responsible Government employee / officer by giving them an opportunity of being heard in view of the provisions of rule 129 (B) (3) of the Maharashtra Civil Services (Pension) Rules, 1982.

There shall be no order as to costs.

**MEMBER (J)**

O.A.NO. 104-2016(hdd)-2017 (Int. on delayed payment)