

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 1045 / 2021 (S.B.)**

Shrikrishan S/o Mahadeorao Mahalle,
Aged about 59 years, Occupation:-Retired,
R/o Sanjivani Colony, New Khetan Nagar,
Kaulkhed, Akola, Tah. &
District - Akola (M.S.)

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Water Resources Department,
Mantralaya, Mumbai- 32.
- 2) Superintending Engineer,
Water Resources Department, Akola
Irrigation Circle, B & C Building,
Akola-444 001.
- 3) Executive Engineer,
Water Resources Department,
Akola Irrigation Division, Nehru
Chowk, Akola-440 001.
- 4) Sub Divisional Officer,
Water Resource Department,
Irrigation Sub Division No. 1,
Murtizapur Road, Akola-444 001.

Respondents

Shri R.M.Fating, Id. Counsel for the applicant.

Shri A.M.Khadatkar, Id. P.O. for the Respondent no. 1.

Shri T.M.Zaheer, Id. Counsel for the respondent nos. 2 to 4.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 23rd August, 2022.

Judgment is pronounced on 25th August, 2022.

Heard Shri R.M.Fating, ld. counsel for the applicant, Shri A.M.Khadatkar, ld. P.O. for the respondent no. 1 and Shri T.M.Zaheer, ld. Counsel for the respondent nos. 2 to 4.

2. In this O.A. the applicant is claiming interest on account of delayed payment of retiral benefits.

3. The applicant retired on superannuation as Wireless Operator on 30.06.2020 (A-2). Neither departmental nor judicial inquiry was pending against him. On 09.06.2020 he made an application (A-3) for grant of provisional pension. For payment of T.A. bill and balance salary for the month of March, 2019 he made applications (A-4 and A-5, respectively). His representations dated 02.03.2021 and 12.03.2021 (A-6 collectively) too, went unheeded. His pensionary benefits were released belatedly and hence, he is entitled to get interest as shown in the following chart:-

Sr. No.	Retiral Benefits	Amount Rs.	Date of entitlement of interest		Rule/G.R.
			From	To	
1	Gratuity	6,64,900/-	01.10.20	02.06.21	129-A
2	Commutation of pension	8,75,942/-	01.01.20	28.06.21	129-B
3	Leave encashment	5,10,120/-	01.08.20	01.01.21	20.06.96

4	Group Insurance Scheme (GIS)	49,621/-	01.10.20	25.03.21	27.05.92
5	Pension & pension arrears for the month July 2020 to June 2021	3,03,144/-	01.10.20	19.07.21	129-B

For payment of retiral benefits and interest thereon on account of delay, the applicant made representations dated 22.07.2021 and 23.08.2021 (A-8 and A-9, respectively). By the impugned communication (A-10) respondent no. 3 declined to grant interest though admittedly there was delay in releasing retiral benefits. Amount of leave encashment was also not paid within the time as stipulated in G.R. dated 20.06.1996 (A-11). There was clearly delay in making payment of retiral benefits considering the time frame stipulated in G.R. dated 27.05.1992 (A-12). Mandatory rules with regard to timely processing of pension case were not followed. Hence, the respondents would be liable to pay interest as provided under Rule 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982. Hence, this application.

4. Reply of respondents 2 to 4 is at pages 65 to 70. They have raised two preliminary objections viz limitation and this Tribunal being not the proper forum for redressal of grievances made by the applicant, he being a Wireless Operator to whom Maharashtra Civil Services Rules were not applicable. Neither of these preliminary objections is sustainable.

5. According to the respondents 2 to 4 the delay in making payment of retiral benefits was primarily caused due to Covid-19

Pandemic and hence interest would not be payable. In the impugned communication (A-10) it was stated:-

“वर नमुद केल्या प्रमाणे आपणास सेवा निवृत्ती प्रकरणाचे लाभ अदा करण्यात आले असुन आपण केलेल्या व्याजाच्या मागणी नुसार नमुद करण्यात येते की, कोविड-१९ मुळे दिनांक २१ मार्च २०२० ते ३१.०७.२०२० दरम्यान शासकीय कार्यालये बंद होती. त्यानुसार आपणास तात्पुरत्या निवृत्तीचे प्रदान करता आले नाही.”

6. The applicant has relied on the Judgment of Principal Bench of this Tribunal dated 12.02.2021 in O.A. No. 1228/2019. In this case *inter alia* reliance is placed on “**S.K.Dua Vs. State of Haryana & Another AIR 2008 SC 1007**” wherein it is held that if there are statutory rules occupying the field interest for delay in making payment of retiral benefits would be payable in accordance therewith.

7. Shri Fating, Id. Counsel for the applicant has relied on Rules 120 (1), 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules, 1982. Rule 120 (1) mandates that two years before the date of retirement on superannuation the work of preparation of pension papers shall be undertaken by the employer. Rule 129-A provides for grant of interest on delayed payment of gratuity. Rule 129-B provides for grant of delayed payment of pension. It is not the case of the respondents that delay in payment of retiral benefits was attributable to the applicant himself. Hence, interest would be payable on delayed payment.

8. During the course of arguments statement was made on behalf of the applicant that the applicant was not claiming interest on delayed payment of Home Travel Allowance and balance of salary for the month of March-2019.

9. It may be reiterated that the respondents do not dispute that the retiral benefits were not paid to the applicant within the stipulated

time frame as given in the Maharashtra Civil Services (Pension) Rules, 1982. Reason furnished by them for delay in making payment cannot be accepted so as to deprive the applicant of his statutory right to claim interest. Hence, the order:-

O R D E R

O.A. is allowed in the following terms:-

- A. The respondents are directed to pay interest to the applicant on gratuity, commutation of pension, leave encashment, G.I.S. and pension and pension arrears for the months of July, 2020 to June, 2021, after calculating the period of delay, at the rate applicable to G.P.F., within two months from today.
- B. No order as to costs.

(Shri M.A.Lovekar)
Member (J)

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 25/08/2022.
and pronounced on

Uploaded on : 26/08/2022.