

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 125/2017**

Surendra s/o Janrao Raut,  
Aged about 60 years, Occ-Retired  
Government servant,  
R/o LIC Colony, Sankatmochan  
Hanuman Mandir, Nalwadi,  
Nalwadi (HPO), Wardha.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Department of Animal Husbandry,  
Dairy Development and Fisheries,  
Mantralaya, Mumbai-400 032.  
Through its Secretary.
- 2) The Dairy Development Commissioner  
Administrative Building,  
Khan Abdul Gaffar Khan Marg,  
Worli Sea Face,  
Mumbai-18.
- 3) The Regional Dairy Development Officer,  
Nagpur Region, Nagpur.
- 4) District Treasury Officer, Bhandara.
- 5) District Treasury Officer, Wardha.

**Respondents**

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Shri S.M. Khan, Ld. counsel for the applicant.  
Shri V.A. Kulkarni, Ld. P.O. for the respondents.

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

**Dated: - 31<sup>st</sup> January 2022.**

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Heard Shri S.M.Khan, learned counsel for the applicant and Shri V.A. Kulkarni, Ld. P.O. for the respondents.

2. Case of the applicant is as follows:-

On 30.4.2013, the applicant stood retired on superannuation. At that time, no departmental or criminal proceedings were pending against him. Still he did not get retiral benefits in time. Therefore, he filed O.A. No. 214/2014 in this Tribunal. It was disposed of on 20.3.2015 (Annexure A-13). The respondents were directed, by order dated 20.3.2015, to recalculate and pay, pension / gratuity and all retiral benefits to the applicant within six months as stipulated by the Tribunal. Question of award of interest on delayed payment was, however, kept open. Hence, this application.

3. Shri S.M.Khan, learned counsel for the applicant submitted that prayer (i) in this application regarding payment of amount of Rs. 42,204/- towards commutation of pension does not survive, as he has already received said amount, and hence, the only relief which the applicant is seeking is award of interest on delayed payment of service arrears and retiral benefits.

4. Reply of respondents Nos. 2 and 3 is at pages 70 to 75. These respondents have resisted the only surviving prayer of

award of interest on account of delayed payment on the following grounds:-

“6. It is pertinent to mention here that on receiving information from the Treasury Office, Wardha, that the applicant was retired on 30.4.2013, immediately the Dairy Development Department had submitted the proposal for grant of pension of the applicant in the office of respondent No.4. After receipt of the proposal of the applicant, the respondent No.4 has sanctioned the pension of the applicant and communicated by the letter dated 22.8.2013 to the respondent No.2. Thereafter, the respondent No.2 has submitted the proposal in the office of the respondent No.3, the Treasury Office, Wardha on 13.9.2013. Immediately, the applicant was called for identification vide its letters dated 20.9.2013, 9.1.2014 and 26.5.2014. It is pointed out here that the presence of the applicant within three months before the competent authority is mandatory. The applicant failed to comply the same and he appeared after lapse of one year. As such the delay is occurred due to failure on the part of the applicant himself and, therefore, the delay is attributed to him only.

7. Needless to mention here that, as the applicant appeared for personal identification after lapse of one year i.e. on 15.9.2014 and accordingly the commuted value of pension was paid to the applicant on 24.9.2014, as a result thereof as per the provisions under Rule 6 (a) of M.C.S. (Commutation of Pension) Rules, 1984, the

reduction in the amount of pension on account of commutation shall be operative from the date of receipt of commuted value of pension or at the end of three months after issue of authority by the Audit Office for the payment of commuted value of pension whichever is earlier. Accordingly, the commuted value of pension to the tune of Rs. 42,204/- only was deducted for the period of 9 months and 9 days, which is just and proper and according to the aforesaid Rule.”

5. Reply of respondent No.5 is at pages 88 to 94. Para No.3 of his reply is as follows:-

**Para 3-** It is submitted that the applicant retired on 30.4.2013. After his retirement, concerned department had submitted the pension case to the Accountant General-II, Nagpur. Thereafter, Accountant General-II, Nagpur by its letter dated 22.8.2013, released the authority which was received in the office of this respondent No.4 on 13.9.2013, the said authority sanctioned amount of gratuity of Rs. 3,74,385/-, Pension Rs. 11,345/- and commutation of pension Rs. 4,55,852/-.

**3-i--** After the receipt of the Authority, the office of respondent No.5 had requested the applicant by letter dated 20.9.2013 to remain personally present on 7.10.2013 at 11.00 a.m. in the office of respondent No.5 for first identification but the applicant has failed to remain present on 7.10.2013. A copy of the

abovementioned letter dated 20.9.2013 is annexed as **Annexure R5-1.**

**3-ii--** Thereafter again on 9.1.2014 and 26.5.2014, similar request letters / reminders were sent to the applicant intimating him to remain present for first identification. A copy of the abovementioned letters dated 9.1.2014 and 26.5.2014 are annexed as **Annexure R5-II and R5-II.** In spite of these letters, the applicant failed to remain present for his first identification in the office of this respondent No.5.

**3-iii--** It most respectfully submits that the applicant, after a period of one year, came to the office of respondent No.5 for his first identification on 15.9.2014, accordingly, his first identification was taken on 15.9.2014. The copy of the relevant extract showing the identification taken from the applicant is annexed as **Annexure R5-IV.** After identification from the applicant the office of respondent No.5 has paid the commuted value of pension to the applicant on 24.9.2014. The copy of the relevant extract of payment is annexed as **Annexure R5-V.”**

6. The applicant has not traversed these pleadings of the respondents. He does not dispute that he appeared before respondent No.5 for personal identification only on 15.9.2014.

7. Rules 129 (A) and 129 (B) of M.C.S. (Pension) Rules, 1982 provide for grant of interest only when the delay in payment is

not attributable to the concerned Government servant. In this case, delay upto 15.9.2014 can be attributed to the applicant. He was informed thrice by respondent No.5 to remain present for personal identification. He did not pay heed to these communications. Under the circumstances, for the delay upto 30.9.2014, no interest can be paid to the applicant. However, for the period from 1.10.2014 till the date on which payment was made, he would be entitled to get interest. The applicant has filed a Chart in this Tribunal which is as follows:-

**“Chart:- Showing pensionary / retiral benefits received by the applicant (Date of retirement—30.4.2013)**

Sr.No.	Particulars	Amount received	Date of receipt of amount	Amount received late by
1	Commutation of pension	Rs.3,97,977	26.9.2014	1 year and 6 months
2	Provisional pension arrears	Rs. 2,12,530	27.5.2014	1 year and 1 month
3	GPF arrears	Rs.25,789	31.12.2014	1 year and 9 months
4	Gratuity	Rs. 3,74,385	25.10.2016	3 years and 6 months
5	T.A. (Transfer from Nagpur to Bhandara)	Rs. 22,907	7.4.2015	1 year and 11 months
6.	Monthly pension started receiving w.e.f.	Rs. 17,528	---	---

8. The respondents will have to ascertain correctness of details furnished in the Chart and then make payment as per determination made above.

9. According to the applicant, interest should be awarded at the rate of 18% p.a.. To support this submission, the applicant has relied upon—

**“Suo motu for D.K. Dudhani V/s State of Gujarat and others.** In this case, by relying upon the Hon'ble Apex Court's judgment (Vijay L. Mehrotra V/s State of Uttar Pradesh, AIR 2000 SC 3515, interest on delayed payment of gratuity was awarded at the rate of 18% p.a. The applicant will not derive any benefit from this ruling, because interest on delayed payment will have to be paid as per relevant statutory Rules.

10. The applicant has relied on judgment dated 20.12.2021 in O.A. No. 138/2019 delivered by Aurangabad Bench of this Tribunal. In this case, delay in making payment of retiral benefits was caused by pendency of disciplinary proceedings. The disciplinary proceedings ended in exoneration of the applicant. In this factual background, it was held that delayed payment of gratuity and difference of pension would carry interest at the rate of 9% p.a. beyond the period of three months and six months respectively from the date of retirement of the applicant.

11. The applicant has also relied on the judgment dated 14.1.2019 passed by this Bench in O.A. No. 559/2016. In this case, it was held that on account of delay, beyond the date on which

departmental enquiry had concluded, retiral benefits were required to be paid with interest as admissible under the Rules 129 (A) and 129 (B) of the M.C.S. (Pension) Rules, 1982.

Both these rulings are not applicable to the facts of the case.

As per Rules 129 (A) and 129 (B) of the M.C.S. (Pension) Rules, 1982, interest at the rate applicable to GPF deposits is to be paid. The applicant would be entitled to get interest as per these Rules. Hence, the order.

### **ORDER**

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

- (i) The respondents are directed to pay interest to the applicant at the rate applicable to GPF deposits for the period from 1.10.2014 to the date of actual payment of retiral benefits.
- (ii) No order as to costs.

(M.A.Lovekar)  
Member (J)



