

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.930 OF 2016  
(Subject:-Interest on Delayed Payment)**

**DISTRICT: - Nandurbar.**

**Shri Chudaman Daga Pawar,** )  
Age: 60 years, Occ: Retired, )  
Deputy Engineer, Public Work Department, )  
R/o.22, Trimurti Nagar, Gondur Road, )  
Deopur, Dhule. )...**APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
(Through The Secretary )  
Public Work Department, )  
Mantralaya, Mumbai-400032. )
2. **The Divisional Commissioner,** )  
Nashik Division, Nashik. )
3. **The Accountant General,** )  
Accounts and Entitlement, )  
Mumbai, Maharashtra. )
4. **The Chief Engineer,** )  
Public Work Department, )  
Nashik Division, Nashik. )...**RESPONDENTS**

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**APPEARANCE** : Shri Shrikant Patil, learned Advocate  
for the applicant.

: Shri Shri N.U. Yadav, learned  
Presenting Officer for the respondents.

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

**DATE** : **21.07.2022**

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**ORDER**

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 this Original Application is filed challenging the impugned communication dated 17.11.2016 (Annex. 'A-8') issued by the respondent No.6 i.e. the Executive Engineer, Road Project Department, Dhule thereby denying the interest on delayed payment of pensionary benefits in response to letter/representation dated 14.10.2016 (Annex. 'A-7') submitted by the applicant and consequently seeking interest on delayed payment.

2. The facts in brief giving rise to this Original Application can be stated as follows:-

- (i) Before his retirement on superannuation on 31.05.2013, the applicant had been working as Deputy Engineer, Sub-Division at Shahada, District Nandurbar. He belongs to Schedule Tribe Category. He has rendered meritorious service for which he was given appreciation certificate by the Government for the year, 2011-2012 (Annex. 'A-1(i)'). Just before his retirement, the applicant was put under suspension without following due process of law on 17.04.2013

and with mala-fide intention. The applicant challenged the said suspension order dated 17.04.2013 by filing the Original Application No.364/2014 (wrongly mentioned as 364/2015). By order dated 30.01.2015 (Annex. 'A-2') the said suspension order was quashed and set aside and the applicant was given liberty to file representation for claiming consequential benefits (retirement benefits) and directions were given to the respondents to decide such representation in accordance with law. The applicant was hoping for retirement benefits at the earliest and infact he was in much need of the same due to serious health problems faced by him. He has undergone surgery of Kidney Transplantation.

- (ii) It is further submitted that as the applicant did not get his pensionary benefit, he filed Original Application No.340 of 2015 before this Tribunal for seeking such pensionary benefit and more particularly in view of the fact that his representation dated 09.02.2015 was not decided. After hearing, this Tribunal by order dated 07.10.2015 (Annex. 'A-3') allowed the said Original Application No.340 of

2015 granting payment of pensionary benefit and to pay the same within the period of three months from the date of order. Instead of complying the said order, the respondents filed M.A.No.10/2016 in the said O.A.No.340/2015 seeking extension of time. By order dated 20.01.2016 (Annex. 'A-4'), the respondents were granted extension of one month period for compliance.

- (iii) It is further submitted that instead of complying the order of payment of retirement benefits as per directions given by this Tribunal in O.A.No.340/0015 dated 07.10.2015 (Annex. 'A-3'), the respondents intended to initiate departmental enquiry against the applicant after his retirement on superannuation on 31.05.2013 by issuing letter dated 08.02.2016. The applicant replied the said letter and pointed out that the respondents have no right to initiate the departmental enquiry after lapse of three years from the date of retirement of the applicant on superannuation on 31.05.2013 and there is not provision to withhold the pensionary benefits.

- (iv) It is further submitted that thereafter also the respondents failed to pay the pensionary benefit which were due to the applicant. In view of same, the applicant filed Contempt Petition No.1/2016 before this Tribunal. The said Contempt Petition was decided by order dated 04.08.2016 (Annex. 'A-6') observing that the respondents had complied with the orders in question regarding payment of pensionary benefits. The applicant was granted liberty to file application under Rule 129 of M.C.S. (Pension) Rules, 1982 to the appropriate authority for claiming interest on delayed payment of pensionary benefits as per the said order dated 04.08.2016 (Annex. 'A-6').
- (v) It is contended that the applicant retired on superannuation on 31.05.2013. He ought to have received pensionary benefits on that date. The applicant, however, received the pensionary benefits belatedly. The applicant in that regard filed representation dated 14.10.2016 (Annex. 'A-7') to the respondents seeking interest on delayed payment as follows:-

**Details of delayed payments and interest on delayed payments as per the Government Rules @ 9% to Shri C.D. Pawar, Sub-Divisional Engineer (Retired)**

Sr. No.	Payment details	Cheque No. / Date	Amount	Said Amount was required to be received as per rules on the following dates	Delayed payment	Interest @ 9%	Total amount of interest
1	Leave Encashment	976875 Dt. 13.02.2014	3,15,210.00	31.05.2013	8 months & 13 days	19,937.03	19,937.03
2	GPF	468567 Dt. 14.09.2015	682644.00	31.05.2013	2 years, 3 months & 14 days	1,40,624.70	1,40,624.70
3	GIS	468591 Dt. 15.10.2015	172384.00	31.05.2013	2 years, 4 months & 15 days	36,870.67	36,870.67
4	Time Bound Promotion Arrears	468984 Dt. 05.10.2015	206059.00	1.7.2009	6 years, 3 months & 5 days	1,16,165.00	1,16,165.00
5	Assured Carrier Progression Scheme Arrears	16.11.2015	23350.00	1.7.2009	6 years, 4 months & 19 days	13,397.00	13,397.00
6	Gratuity	356141 Dt. 26.05.2016	491660.00	31.5.2013	1 year, 11 months & 26 days	87,828.14	87,828.14
7	Arrears of pension deposited by Treasury Office	4.6.2016	2270039.00	31.5.2013	3 years & 4 days	61,527.03	61,527.03
8	Amount of Commutation of Pension (CVP)	27.7.2016	634019.00	31.5.2013	2 years, 11 months & 17 days	1,70,709.60	1,70,709.60
<b>Total Rs.</b>						<b>6,47,059.17</b>	<b>6,47,059.17</b>

- (vi) The respondent No.5, however, without considering his said representation dated 14.10.2016 (Annex. 'A-7') in accordance with law rejected his claim of interest by issuing impugned communication dated 17.11.2016 (Annex. 'A-8'). It is the contention of the applicant that the respondents were only responsible for delayed payment. The respondents failed to take into consideration that as per the order of this Tribunal, the applicant was entitled for interest on delayed payment. The respondents, however, failed to consider that the certificate of No Enquiry and No Due pending against the applicant was issued by the respondent No.1 on 06.01.2016 on the basis of which the retirement benefits are paid to the applicant.
- (vii) During the course of hearing, the applicant produced Government order dated 10.08.2020 as per which the departmental enquiry was dropped against the applicant. In view of same, according to the applicant he is entitled for interest on delayed payment in accordance with law.
3. The application is resisted by filing affidavit-in-reply on behalf of the respondent Nos.1 to 6 jointly by one

Dineshkumar S/o. Budha Bagul working as the Executive Engineer, Public Works Department (Tribal) Division, Dhule, District Dhule. Thereby he denied adverse contention raised in the Original Application. Further additional affidavit-in-reply is filed on behalf of the respondent No.2 by one Shanta W/o. Rangnath Tambekar working as the Deputy Chief Executive Officer. In both the affidavits, the previous litigations referred to by the applicant and the orders passed therein are admitted. In their submissions, the respondents had taken proper steps for granting the pensionary benefits and consequential benefits to the applicant. They have complied with the orders passed by this Tribunal from time to time in that regard and even seeking extension of time legally. The pensionary benefits except pension and gratuity were paid in time in accordance with law. The pension and gratuity however, were not sanctioned upto 26.05.2016 as the departmental enquiry was pending against the applicant. The respondents followed up the matter diligently and to substantiate the same, they have filed on record the copy of correspondence at Annex. 'R-III' collectively, which would show that the applicant was not responding to the



correspondence and he himself is responsible for the delayed payment and not the respondents.

4. I have heard the arguments advanced by Shri Shrikant Patil, learned Advocate for the applicant on the one hand and Shri N.U. Yadav, learned Presenting Officer for the respondents on the other hand.

5. Perusal of the rival pleadings and documents would show that the applicant stood retired on superannuation on 31.05.2013 from the office of the respondent No.6. The impugned order dated 17.11.2016 (Annex. 'A-8') is passed by the respondent No.6 rejecting the representation made by the applicant dated 14.10.2016 seeking interest on delayed payment (Annex. 'A-7').

6. Considering the claim of interest made by the applicant in this Original Application, the provisions which would come into play to consider the said relief would be Rule 129 (A) and 129 (B) of M.C.S. (Pension) Rules, 1982. Rule 129 (A) deals with interest on delayed payment of gratuity, which provides that interest at the rate applicable to General Provident Fund deposits shall be paid on the amount of gratuity in respect of the period beyond three months, if the delay in payment of

such gratuity is attributed to the administrative lapses. But if the delay in payment of such gratuity is attributed on the part of the Government Servant, to comply with the procedure laid down, no interest shall be payable. Moreover, the provisions of Rule 129 (B) of M.C.S. (Pension) Rules, 1982 provides interest on delayed payment of pension beyond six months on the similar footing as of Rule 129 (A), but beyond six months.

7. So far as encashment of salary is concerned, Rule 68 of M.C.S. (Leave) Rules, 1981 would come into play which provides mandatorily to prepare a bill for leave salary in respect of the unutilized earned leave to the treasury within the period of 15 days after the date of retirement as specifically provided in Rule 68 (6) (e) of the Leave Rules.

8. The amount of GPF and GIS can be said to be payable as on the date of retirement, which are being amounts contributed by the applicant himself. So far as the commutation of pension is concerned, the same can be considered for interest as per Rule 129 (B) of Pension Rules on the footing of pension i.e. beyond the period of six months.

9. Further perusal of record would show that as the applicant did not get his benefits other than the pension and gratuity which can be said to be withheld on account of pendency of departmental enquiry against the applicant, the applicant was constrained to file the Original Application No.340/2015 seeking the said other pensionary benefits. The said Original Application was decided by order dated 07.10.2015 (Annex. 'A-3') granting prayer clause B, C and D thereof and further directing the respondents to make necessary compliance within the period of three months from the date of this order.

10. Record would show that the period of three months expired on 07.01.2016. The record would further show that the amount of leave encashment, GPF, GIS, benefit of Time Bound Promotion, benefit of Assured Career Progression Scheme were paid on 13.02.2014, 14.09.2015, 15.10.2015, 05.10.2015 and 16.11.2015 respectively. The applicant is claiming arrears of Time Bound Promotion and Assured Career Progression Scheme from 01.07.2009, whereas he is claiming interest on leave encashment, GPF and GIS w.e.f. his date of retirement i.e. on 31.05.2013.

11. So far as GPF amount is concerned, the respondents have placed on record the letters addressed to the applicant repeatedly for completing his part of putting signature on certain documents. The said copies of correspondence are from the date of his retirement till March, 2014. In view of same, on that count the delay is attributed to the applicant. So far as arrears of Time Bound Promotion and Assured Career Progression Scheme is concerned, it is not demonstrated by the applicant by any documents as to how the said arrears are due from 01.07.2009. So far as gratuity, arrears of pension and commutation of pension are concerned, those requisite amounts are paid respectively on 26.05.2016, 04.06.2016 and 27.07.2016. Departmental enquiry was pending against the applicant, which came to an end by dropping it as per Government letter dated 10.08.2020. In view of same, in my considered opinion, the applicant shall be entitled for requisite interest on gratuity as per Rule 129 (A) of M.C.S. (Pension) Rules, 1982 and interest on arrears of pension and commutation of pension, as per Rule 129 (B) of M.C.S. (Pension) Rules, 1982. In view of same, in my opinion, the Original Application can be disposed of appropriately by passing the following order.

**ORDER**

The Original Application is party allowed in following terms:-

<sup>(A)</sup> The impugned order/communication dated 17.11.2015 (Annex. 'A-8') issued by the respondent No.6 is hereby quashed and set aside to the extent of gratuity, arrears of pension and commutation of pension and consequently the respondents are directed to pay the requisite interest on the amount of gratuity as per Rule 129 (A) of M.C.S. (Pension) Rules, 1982 and on the arrears of pension and commutation of pension as per Rule 129 (B) of M.C.S. (Pension) Rules, 1982 within the period of two months from the date of this order. Accordingly the Original Application stands disposed of.

(B) No order as to costs.

**(V.D. DONGRE)**  
**MEMBER (J)**

**Place :- Aurangabad**  
**Date :- 21.07.2022**  
SAS O.A.930/2016