

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.97/2018

DISTRICT: HINGOLI

Dr. Vijayprakash s/o. Narayan Tambhale,

Age : 63 years, Occu. : Retired,

R/o. Basmath, Tq. Basmath,

Dist. Parbhani.

...APPLICANT

V E R S U S

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

2. The Director of Health Services,
Mumbai.

3. Civil Surgeon,
Civil Hospital, Hingoli,
Dist. Hingoli.

...RESPONDENTS

APPEARANCE :Shri V.B.Wagh, Advocate for the
Applicant.

:Shri V.R.Bhumkar, Presenting Officer for
the respondents.

CORAM : B. P. Patil, Acting Chairman

Reserved on : 13-01-2020

Pronounced on : 16-01-2020

J U D G M E N T

1. By filing the present O.A., the applicant has challenged the order dated 02-07-2018 issued by the respondent no.3 Civil Surgeon, Hingoli, Dist. Hingoli rejecting his claim for interest on the delayed payment of pensionary benefits and prayed to quash and set aside the said order and also prayed to direct the respondents to calculate the interest as per Rule 129 (a) of the Maharashtra Civil Services (Pension) Rules, 1982 and to pay the same to him.

2. The applicant was initially appointed as Medical Officer Group-B on 17-07-1979. He worked at various places during his service tenure. On attaining age of superannuation he retired as Medical Superintendent on 31-07-2013. After retirement, applicant made several representations with the respondents for releasing pension and pensionary benefits. The Deputy Director of Health Services, Aurangabad Circle, Aurangabad had directed the Civil Surgeon, Hingoli by letter dated 14-10-2014 to take steps for releasing his retiral benefits but the respondent no.3 had not released the pensionary benefits. Therefore,

he again submitted representation to the Deputy Director, Health Services, Aurangabad for finalization of pension but no steps have been taken by respondent no.3 in that regard. Thereafter also he made several representations with the Deputy Director, Health Services, Aurangabad in that regard but the respondent no.3 has not given heed to it. Therefore, the applicant had filed O.A.No.716/2015 before this Tribunal. This Tribunal by order dated 26-07-2016 directed the respondents to pay the retiral benefits to the applicant within a period of one month. In spite of that, respondents had not paid retiral benefits to the applicant, therefore, the applicant filed Contempt Petition St. No.240/2016 before the Tribunal. During the pendency of the Contempt Petition respondents had paid all the benefits to the applicant. Therefore, the Contempt Petition was disposed of.

3. It is contention of the applicant that he received the leave encashment amount of Rs.7,09,270/- after 7 months of his retirement. He received the GPF amount of Rs.4,67,231/-, difference of 6th and 5th Pay Commission to the extent of Rs.49,469/- after 25 months. GIS amount of Rs.2,35,714/- was paid to him after 35 months. He

received salary in the tune of Rs.22,71,618/- for a period of January, 2013 to 30-07-2013 after 44 months. It is his contention that the delay has been caused on the part of the respondents in disbursing pensionary benefits to him. There were administrative lapses on the part of the respondents in not disbursing the said amount. It is his contention that no departmental enquiry was pending against him during the period but the respondents illegally withheld the amount. Therefore, he filed representation dated 14-12-2017 to the respondents and claimed interest on the said amount but the respondent no.3 rejected the said representation by communication dated 02-07-2018. It is his contention that the respondent no.3 has not followed the provisions of Rule 129 (a) of the Maharashtra Civil Services (Pension) Rules, 1982. It is his contention that the respondent no.3 is not the competent authority to decide his representation and the power is vested with the Head of the Department i.e. respondent no.1 and 2. Therefore, he prayed to quash and set aside the impugned order and prayed to direct the respondents to pay him interest on the delayed payment of pensionary benefits in view of the provisions of Rule 129 (a) of the Maharashtra

Civil Services (Pension) Rules, 1982 by filing the present O.A.

4. Respondent nos.1 to 3 have resisted the claim of the applicant by filing their affidavit in reply. They have denied that the applicant made representations with the Deputy Director, Health Services, Aurangabad and the Deputy Director, Health Services directed the respondent no.3 to take steps to release pensionary benefits by communication dated 14-10-2014. They have denied that the applicant has made several representations with the respondents but they have not taken decision in that regard. They have denied that there were administrative lapses on the part of the respondents in processing pension papers of the applicant. It is their contention that the pension papers have been processed. There was delay in processing the pension case and delay is caused because of the applicant. The applicant is responsible for causing delay in sending pension proposal. It is their contention that the applicant collected the original service book from the respondent no.3 for taking entries in the service book from the concerned authorities. He has not returned the said service book to the respondents in time. He has returned the service book

on 25-09-2013 but it was incomplete. Not only this but the applicant has not submitted prescribed forms which are necessary for processing the pension papers and granting pension to the applicant within prescribed period. It is their contention that the applicant worked on the post of Medical Superintendent, Sub District Hospital, Basmath. He was Gazetted Officer and he himself handled pension cases of Group-C and Group-D employees during his tenure. He was aware of the procedure of submitting pension papers in the proforma to be submitted by the Government servant who is going to retire within 8 months. Service book of the applicant was in his custody and he had not submitted the same before the respondent no.3. In the absence of required proforma and service book respondent no.3 was not able to process the pension papers of the applicant. The applicant never acted diligently and has not co-operated with the respondent no.3 in processing the pension papers. It is their contention that they sent required proforma and pension papers to the applicant through special messenger Shri V.M.Deshpande for obtaining signatures of applicant on 16-06-2016. Thereafter, the signatures of the applicant were obtained. After obtaining signatures on the pension papers they have

processed the pension case of the applicant and thereafter pensionary benefits were disbursed to the applicant. It is their contention that the Pay Verification Unit, Aurangabad has raised several objections when service book of the applicant was sent to Pay Verification Unit. On the basis of objection raised by Pay Verification Unit, Aurangabad service book of the applicant was completed by District Health Office, Parbhani and thereafter pension papers were processed. Due to incomplete entries in the service book pension case of the applicant was not processed in time and the applicant himself is responsible for the same. It is their contention that meanwhile provisional pension has been granted to the applicant. It is their contention that there is no delay on their part in processing the pension case of the applicant and therefore applicant is not entitled to get interest on the delayed payment of pensionary benefits. It is their contention that the respondent no.3 has rejected the representation of the applicant claiming interest by recording reasons on 02-07-2018. There is no illegality in the same. Therefore, they have justified the impugned order and prayed to dismiss the O.A.

5. I have heard Shri V.B.Wagh Advocate for the Applicant and Shri V.R.Bhumkar Presenting Officer for the

respondents. I have perused the documents placed on record by the parties.

6. Admittedly, the applicant was initially appointed as Medical Officer Group-B on 17-07-1979. He worked at several places. On attaining age of superannuation, he retired as Medical Superintendent on 31-07-2013. Admittedly, pension papers of the applicant had not been forwarded by respondents immediately after his retirement. Therefore, the applicant approached this Tribunal by filing O.A.No.716/2015. This Tribunal decided the O.A. on 26-07-2016 and directed the respondents to pay retiral benefits to the applicant within one month. As the respondents had not complied with the said order, the applicant filed Contempt Petition St. No.240/2016 against the respondents. During the pendency of the Contempt Petition respondents had paid all the benefits to the applicant. There is no dispute about the fact that the pension of the applicant has been sanctioned by the Pension Payment Order dated 30-08-2016. Gratuity amount of Rs.6,11,780/- has been paid to the applicant by the same order dated 30-08-2016. Commutation amount has been sanctioned by order dated

30-08-2016. GIS amount of Rs.2,31,744/- has been paid to the applicant on 01-07-2016. Leave encashment amount in the tune of Rs.7,09,270/- has been paid to the applicant on 15-01-2014. Provisional pension was sanctioned to the applicant. GPF amount of Rs.4,67,231/- has been paid to the applicant.

7. Learned Advocate for the applicant has submitted that the applicant retired on 31-07-2013 but the pensionary benefits have not been paid to him immediately after his retirement and the delay has been caused for making payment of amount of leave encashment, difference of 5th & 6th Pay commission, GIS and GPF amount. He has submitted that delay has been caused due to administrative lapses. Therefore, the applicant is entitled to get interest on the delayed payment of pensionary benefits in view of provision of Rule 129 (a) of Maharashtra Civil Service (Pension) Rules, 1982. He has submitted that the applicant raised claim regarding interest with the respondents but the respondent no.3 rejected the same by impugned order dated 02-07-2018. He has submitted that the respondent no.3 is not competent to decide his representation, and therefore, the impugned order is illegal. He has submitted

that there is delay of more than 7 months to 44 months in payment of pensionary benefits to the applicant. Therefore, the applicant is entitled to get interest on the said amount. Hence, he has prayed to allow the O.A. by quashing and setting aside the impugned order.

8. Learned P.O. has submitted that the applicant was serving as Medical Superintendent. He was aware about the provisions of Maharashtra Civil Services (Pension) Rules, 1982 as he had handled pension cases of Group-C and Group-D employees working under his control. He has argued that in view of the provisions of Maharashtra Civil Services (Pension) Rules, 1982, Government servants likely to retire are required to furnish required information in Form No.5 before 8 months of their retirement. He has submitted that the applicant has not submitted the said information within time. Therefore, respondents could not able to process his pension papers. He has further argued that the applicant was previously serving in Civil Hospital, Parbhani. The entries in the service book had not been recorded in the service book of the applicant when he was serving in Civil Hospital, Parbhani. The applicant collected the original service book for taking entries in it but he has

not returned the service book to the respondent no.3 and he kept it with him for more than one year. He returned the said service book to respondent no.3 on 25-09-2013 without obtaining entries from the Civil Surgeon, Civil Hospital, Parbhani. Therefore, respondent no.3 could not able to process his pension papers. The applicant was informed to furnish necessary information and documents for processing his pension case but the applicant has not furnished the said documents. Not only this but even after the decision of earlier O.A.No.716/2015, applicant has not approached the respondent no.3 for supplying the necessary information and submitted information in the proforma. Therefore, respondent no.3 deputed Shri V.M.Deshpande as special messenger to obtain signature of the applicant on the case papers and accordingly on 16-06-2016 applicant signed the pension case papers. Thereafter, he processed the pension papers. Thereafter, the pension has been sanctioned to the applicant and accordingly pensionary benefits were granted to the applicant. He has submitted that there is no administrative lapse on the part of respondent no.3. Therefore, the applicant is not entitled to get interest in view of Rule 129 (a) of the Maharashtra Civil Services

(Pension) Rules, 1982. He has submitted that the applicant has not appeared before the Medical Board for medical examination though he was informed in that regard by the respondent no.3 by communication dated 26-09-2016. The applicant appeared before Medical Board on 12-04-2017. Therefore, the pensionary benefits had not been paid to the applicant. He has submitted that there was lapse on the part of the applicant and because of the lapse on the part of the applicant delay has been caused in processing the pension papers. Therefore, the applicant cannot claim interest on it. Therefore, he has prayed to dismiss the O.A.

9. On perusal of the record, it reveals that the applicant retired on 31-07-2013. The documents on record show that the service book of the applicant has not been maintained up to date and entries had not been taken therein. Therefore, the service book had been handed over to the applicant to remove the objections, deficiencies and to obtain entries in the service book by making proper entries by the Civil Surgeon, Civil Hospital, Parbhani. The applicant had not made attempt to obtain the entries in the service book from the office of Civil Surgeon, Parbhani. He kept the service book with him for more than one year and

returned the incomplete service book to respondent no.3 on 25-09-2013. Thereafter, the respondent no.3 got the entries updated by the concerned authorities. Therefore, delay has been caused for sending pension papers. It is also material to note here that the applicant is working as Medical Superintendent in Sub District Hospital, Basmath. He has processed the pension papers of Group-C and Group-D employees working under his control. He is aware about the provisions of Maharashtra Civil Services (Pension) Rules, 1982. In view of the said Rules, the employee likely to retire has to furnish necessary information in Form No.5 and produce the same before the Head of the Department to process the pension case. The applicant has not furnished the necessary information within stipulated time i.e. 8 months prior to his retirement. Therefore, the respondent no.3 was not able to process the pension papers in time. Not only this but the applicant has not submitted the information in Form 13 as required under Rule 5(2), Rule 12, Rule 13(3), Rule 14(1) and Rule 15(3) of the Maharashtra Civil Service (Commutation of Pension) Rules, 1984. Therefore, delay has been caused for processing his claim for commutation of pension of the applicant. The applicant has not furnished the GPF slip to

the respondent no.3 for forwarding his case for payment of GPF and therefore the delay has been caused. All these facts show that the applicant himself was negligent. He had not co-operated with the respondent no.3 for sending his pension case papers to A.G. Nagpur within time. As the applicant had not co-operated with the respondent no.3 in processing the case, the respondent no.3 sent pension papers to the applicant for obtaining his signature through special messenger along with letter dated 16-06-2016 and obtained his signatures and thereafter processed the pension case. Thereafter, the applicant received the pensionary benefits. All these facts show that there was no administrative lapse on the part of the respondent no.3 in processing pension case of the applicant disbursing pension and pensionary benefits to the applicant belatedly. Therefore, the respondent no.3 cannot be blamed for it. On the contrary, because of the inaction on the part of the applicant delay has been caused for processing the pension case papers. Therefore, the applicant is not entitled to get interest as claimed by him on the pensionary benefits.

10. It is also material to note here that the applicant received the GPF amount along with interest till the date of

disbursement. Therefore, the applicant cannot claim interest on the said amount. Therefore, claim of the applicant in that regard is not maintainable. The applicant received the provisional pension till sanctioning the regular pension. Therefore, he cannot claim interest on the said amount.

11. On considering the abovesaid facts, it is crystal clear that there were no lapses on the part of the respondent no.3 in processing pension papers of the applicant. The applicant was responsible for the delay caused for processing the case. The applicant has not furnished the necessary information required for processing the pension papers and the respondent no.3 has not caused delay in processing the pension proposal of the applicant. The delay has been caused due to the inaction on the part of the applicant. Therefore, respondent no.3 cannot be blamed. Consequently, respondents are not liable to pay interest on the delayed payment of pensionary benefits to the applicant in view of Rule 129 (a) of the Maharashtra Civil Services (Pension) Rules, 1982.

12. There is no illegality in the impugned order. Therefore, I find no merit in the O.A. Consequently, no

interference is called for in the same. Hence, the O.A. deserves to be dismissed.

13. In view of the discussion in the foregoing paragraphs O.A. stands dismissed with no order as to costs.

(B. P. PATIL)
ACTING CHAIRMAN

Place : Aurangabad
Date : 16-01-2020.

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