

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 265 OF 2017  
(Subject – Interest on Delayed Payment)**

**DISTRICT : LATUR**

**Dr. Suresh S/o Manikrao Karamunge,**)  
Age : 61 years, Occu. : Pensioner, )  
R/o : Guruprasad Niwas, Havagiswami )  
Chowk, Rokade Hanuman Road, )  
Udgir, Tq. Udgir, Dist. Latur. )

**.. APPLICANT**

**V E R S U S**

- 1) **The State of Maharashtra,** )  
Through its Addl. Chief Secretary,)  
Public Health Department, )  
Mantralaya, Mumbai – 32. )
- 2) **The Accountant General, (A&E)-II,**)  
Pension Branch Office, )  
Post Box No. 114, Nagpur-440001.)
- 3) **The Deputy Director,** )  
Public Health Department, )  
Arogya Sankul, Shaskiya Vasahat,)  
Barshi Road, Latur. )
- 4) **The District Health Officer,** )  
Zilla Parishad, Latur. )

**.. RESPONDENTS**

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**APPEARANCE** : Shri I.D. Maniyar, Advocate for the Applicant.  
: Smt. Sanjivani K. Deshmukh-Ghate,  
Presenting Officer for Respondent Nos. 1 to 3.  
: Shri P.R. Tandale, Advocate for respondent No.  
4.

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**CORAM** : **SHRI BIJAY KUMAR, MEMBER (A).**

**DATE** : **27.10.2021.**  
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**ORDER**

1. This Original Application No. 265 of 2017 has been filed by the applicant Dr. Suresh S/o Manikrao Karamunge on 02.05.2017, whereby, the applicant is seeking interest on the delayed payment of pension and other post-retirement benefits of G.P.F., G.I.S., D.C.R.G., Leave Encashment as per the provisions of Rule 129 (A) & 129 (B) of the Maharashtra Civil Services (Pension) Rules, 1982.

2. Brief facts of the case are as follows:-

(a) The applicant was appointed as a Medical Officer in the department of Public Health, Government of Maharashtra and continued in service till 31.08.2014, when he retired on attaining the age of superannuation.

(b) Respondent Nos. 1, 3 and 4 were responsible to submit applicant's pension proposal to the respondent No. 2 following the guidelines prescribed by the Government Resolution of the Finance Department bearing No. सेन्निवे-२०१६/प्र.क्र. ३७/ सेवा-४, dated 29.04.2016. This G.R. also prescribes that while forwarding pension proposals to the Accountant General (A&E), Maharashtra State, Nagpur, the provisions of Rule 59 and Rule 118 to 125 of the

Maharashtra Civil Services (Pension) Rules, 1982 must be followed. However, the respondent Nos. 1, 3 and 4 failed to do so, therefore, the applicant made representation on 30.10.2014 to the respondent No. 1. The applicant submitted reminders on 18.11.2014, 15.12.2014, 24.12.2014 and 09.02.2015.

(c) The applicant thereafter, filed a petition before Lokayukta, Maharashtra on 24.02.2015. Thereafter, respondent No. 1 issued order for retirement of the applicant vide G.R. No. मर्वेअ २०१५/प्र.क.९७४/सेवा-३, dated 09.11.2015 and directed the Deputy Director, Health Services, Latur to do the needful to release post-retirement benefits to the applicant. Accordingly, respondent no. 3 i.e. the Deputy Director, Health Services, Latur Region had called for pension proposal from the respondent no. 4 i.e. the District Health Officer, Zilla Parishad, Latur vide his letter dated 10.02.2016.

(d) In the meantime, respondent no. 4 i.e. District Health Officer, Zilla Parishad, Latur had already submitted pension proposal dated 17.06.2015 mentioning therein that a departmental enquiry was going on against the applicant.

For accuracy, text of “No Enquiry Certificate” issued by respondent no. 4 i.e., the District Health Officer, Zilla Parishad, Latur is reproduced below, which is in Marathi :-

“ **नाचौकशी प्रमाणपत्र**  
 प्रमाणित करण्यात येते की, डॉ. कारामुंगे सुरेश माणिकराव वैद्यकीय अधिकारी, प्राथमिक आरोग्य केंद्र हंडरगुळी, ता. उदगीर, जि. लातूर हे दिनांक ३१.०८.२०१४ रोजी नियत वयोमानानुसार सेवानिवृत्त झालेले आहेत. **त्यांच्या विरुद्ध विभागीय चौकशी चालू आहे.**”

(e) Prior to receipt of pension proposal from the respondent No. 4, Administrative Officer, Sector-2C, Directorate of Health Services, Mumbai had communicated to the Administrative Officer, Sector-2B, Directorate of Health Services, Mumbai vide his letter No. संआसे/वर्ग२/डॉ. सुरेश कारामुंगे/निवसेनी/२का/टे७/जा.क्र. ९०/२क/१५, दिनांक १२.०१.२०१५, as follows:-

“१) तक्रार - नाही.  
 २) विभागीय चौकशी - डॉ. एस.एस. कारामुंगे हंडरगुळी जि. लातूर हे मुख्यालयी वास्तव्य न करणेबाबत विभागीय चौकशी सुरु आहे उपसं लातूर यांचे कडून वि.चौ. चा प्रस्ताव मागविला आहे संचालनालयास प्रस्ताव अद्याप अप्राप्त आहे.”

(f) Director, Health Services, Mumbai had also issued following certificate with self-contradictory contents vide his letter No. संआसे/२ब/ट-४/निवसेनि-के २७/२ब १४४५/१५, दिनांक ०८ सप्टेंबर, २०१५ :-

“

**प्रमाणपत्र**

प्रमाणित करण्यात येते की, डॉ. सुरेश माणिकराव कारामुंगे, वैद्यकीय अधिकारी प्राथमिक आरोग्य केंद्र हंडरगुळी जि. लातूर यांचे कडून कोणतेही शासकीय थकबाकी वसूली येणे शिल्लक नाही. डॉ. कारामुंगे, वैद्यकीय अधिकारी हंडरगुळी जि. लातूर हे मुख्यालयी वास्तव्य न करणे बाबत विभागीय चौकशी सुरु आहे. उपसंचालक आरोग्य सेवा, लातूर यांचे कडून विभागीय चौकशीचा प्रस्ताव मागविलेला आहे. परंतु प्रस्ताव अद्याप संचालनालयास अप्राप्त आहे.”

(g) In the background of report of pending enquiry against the applicant, the respondent no. 2 i.e., the Accountant General (A&E)-II, Nagpur returned the pension papers of the applicant vide his letter No. PR-5/CH-2/P/15/ 10/60223298/1015146875 dated 06.07.2015; with advice to sanction provisional pension.

(h) It is only on 23.09.2016 that “No Enquiry Certificate” in following wordings was issued by the Joint Director (Health Services), Mumbai :-

**“प्रमाणपत्र**

सार्वजनिक आरोग्य विभागाचे पत्र क्र. विभाचौ-२०१२/प्र.क्र.२५/८८/१४/सेवा-४अ, दि. १६.०७.२०१५ अन्वये शासन डॉ. कारामुंगे हे दि. ३१.०८.२०१४ रोजी सेवानिवृत्त झाले असल्यामुळे विभागीय चौकशी बाबत पुढील कार्यवाही करता येत नाही, असे स्पष्ट केले आहे.

शासन निर्णय क्रमांक : मवैअ २०१५/प्र.क्र. ९७४/सेवा ३, दि. ०९.११.२०१५ अन्वये डॉ. कारामुंगे यांचे नियत वयोमान सेवानिवृत्ती प्रकरण मंजूरीचे आदेश शासन स्तरावरून निर्गमित करण्यात आले आहेत.

त्यामुळे डॉ. कारामुंगे यांचे विरुद्ध कोणतेही विभागीय चौकशी/तक्रार प्रलंबित किंवा प्रस्तावीत नाही. तसेच त्यांचे कडून कोणतेही शासकीय येणे बाकी नाही.”

(i) Finally pension and other post-retirement benefits were authorized by the respondent no. 2 i.e., the Accountant General (A&E)-II, Maharashtra, at Nagpur on 29.09.2016. The applicant was paid D.C.R.G., G.I.S., Pension, G.P.F., leave salary Encashment with delay of varying period.

(j) The applicant made representation to the respondent no. 1 i.e., the Secretary, Public Health Department, Mantralaya, Mumbai claiming payment of interest on post-retirement benefits for delay period of 26 months and sent 4 reminders on 09.03.2017, 17.03.2017, 27.03.2017 and 03.04.2017.

(k) The applicant has filed the present Original Application after not getting any response from the respondent No. 1 and submitted interest calculation sheet on page No. 65 of paper book marked as Annexure A-13.

3. Relief Sought: - The applicant prayed for interim relief as per Clause VII (A) of the Original Application, which was not granted. The relief sought in terms of Clause VIII(A) to VIII(D) is mentioned below:-

- “A) Allow this Original Application.*
- B) The respondents may kindly be directed to pay the interest on delayed payment of pension and pensionary benefits as per the provisions of Rule 129 of M.C.S. (Pension) Rules 1982 and amount mentioned in Chart annexed at **Annexure A-13** (of paper book).*
- C) The respondents may kindly be directed to pay the amount of leave encashment and commuted pension along with interest forthwith.*
- D) Any other suitable and equitable relief may kindly be granted in favour of applicant.”*

4. Pleadings, arguments and citations:-

- (a) Respondent Nos. 1 and 3 filed affidavit in reply on 24.02.2017, respondent No. 2 filed affidavit in reply on 09.08.2017 and respondent No. 4 filed affidavit in reply on 18.07.2018.
- (b) Affidavit in rejoinder on behalf of the applicant was filed on 22.10.2018.
- (c) Affidavit in reply to show cause notice issued by this Tribunal on 17.07.2018 for non-compliance of the order passed by the Tribunal on 27.02.2015, was filed on behalf of respondent No. 3 on 23.07.2018.

(d) Additional affidavits were filed on behalf of respondent No. 4 on 18.07.2019 and 14.09.2021.

(e) After the pleadings were complete, the matter was fixed for final hearing on 30.09.2021, which was adjourned to 04.10.2021 on the request of learned Presenting Officer. The matter was part heard on 04.10.2021 and finally heard on 13.10.2021. The contesting sides were given time up to 28.10.2021 to submit written notes of arguments and on receipt of the same; the present matter was reserved for orders.

(f) The learned Advocate for the applicant has submitted following case laws:-

- (i) Judgment in W.P. No. 5206/2014 dated 29.03/06.01.2016 (ii) Judgment in W.P. No. 11324/2015 dated 02.08.2016.
- (ii) Judgment in W.P. No. 12966/2017 dated 03.04.2018.
- (iii) 2019 ALL SCR 973 in Civil Appeal No. 1681 of 2019 dated 08.03.2019 in the case of Chief General, Gujrat Telecom Circle, Bharat Sanchar Nigam Ltd. & Ors. Vs. Manilal Ambalal Patel & Anr.

(g) Learned Advocate for respondent No. 4 cited following case law:-

- (i) 2009 (1) MH.L.J. in the case of Prabhakar S/o Marotirao Dalal Vs. State of Maharashtra and another in W.P. No. 207/2008 decided on 23.07.2008 (Aurangabad).

5. Analysis of Facts and Conclusion :-

A. Ascertaining whether there was an Administrative Delay and if so, by how much time ?

(a) The applicant has based his claim under Rules 118 to 125 of the Maharashtra Civil Services (Pension) Rules, 1982 and 129 (A) and 129 (B) of the Maharashtra Civil Services (Pension) Rules, 1982.

(b) Respondent Nos. 1 and 3 have contested the claims of the applicant of interest payment for delay in payment of pension on the ground that the applicant had not submitted information in Form-5 as prescribed in Rule 120 of the Maharashtra Civil Services (Pension) Rules, 1982. The respondent No. 4 has taken similar defense that the applicant did not submit proper proposal for getting pensionary benefits.

(c) The applicant has reiterated that the respondent No. 4 made mentioned of pendency of Departmental Enquiry against the applicant, which resulted into return of pension

proposal by respondent No. 2. The applicant has countered the allegation that he too, had contributed to delay in submission of pension proposal by late submission of information in Form-5 by stating that the applicant was not asked earlier to submit information in Form-5 and therefore, he cannot be held responsible for delay in sanction of pension and post-retirement benefits. The applicant has further contended that respondent Nos. 1 and 3 vide G.R. dated 09.11.2015 had declared that the applicant stood superannuated on 31.08.2014, meaning thereby, that there was a delay in formal notification of his retirement by the respondent no. 1.

(d) Additional affidavit has been filed on behalf of respondent No. 4 on 18.07.2019, by which the respondent No. 4 has contended that the applicant had filed a complaint before the Hon'ble Lokayukta on 24.2.2015 and Hon'ble Lokayukta was satisfied with action taken by the respondents, the complaint case was disposed of. Therefore, the matter has got finalized and cannot be re-agitated. The respondent No. 4 has also given background facts that a departmental enquiry was proposed against the applicant by communication / letter dated 22.03.2012, which was

returned by the Director of Health Services for making some compliance. Fully complied proposal was resubmitted by the respondent No. 4 on 22.03.2015. It was because of this proposed departmental enquiry, which was mentioned by the respondent No. 4 in pension proposal and there was nothing wrong on his part in reporting correct factual position.

(e) The case laws cited by the learned Advocate for the applicant, as well as, learned Advocate for the respondent No. 4 have upheld the payment of interest on post-retirement benefits and have set out guidance regarding applicable rate of interest, type of interest and considering the due date for payment of post-retirement benefits, which are being taken into account while passing order in the present Original Application

(B) Conclusion: - From submissions of contesting parties, following critical facts emerge out:-

- (a) The applicant retired on superannuation on 31.08.2014.
- (b) Date of formal notification of retirement of the applicant by respondent No. 1 : - 09.11.2015.

- (c) Date of issue of notice to the applicant to submit information in prescribed format-5 on: - *(not provided by either side)*
- (d) Form-5 was submitted by the applicant on : - *(though not provided by either side, the same must have been obtained by respondent No. 4 before submitting first pension proposal of the applicant on 18.06.2015)*
- (e) Pension papers were first submitted to the Accountant General (A&E)-II, Nagpur by respondent No. 4 on 18.06.2015.
- (f) Pension papers resubmitted to the Accountant General (A&E)-II, Nagpur by respondent No. 4 on 14.09.2016.
- (g) Authorization of pension issued on 29.09.2016.
- (h) Date of submission of proposal for initiating Departmental Enquiry against the applicant by respondent no. 4 to respondent No. 3 :- 22.03.2012.
- (i) Date of submission of D.E. proposal by the respondent no 3 i.e., Dy. Director of Health Services to the Director Health Services on 11.04.2012.
- (j) Query raised in D.E. proposal by the Director Health Services on 16.01.2015.
- (k) Compliance of query regarding D.E. proposal by respondent no. 4 on 18.03.2015.

- (1) Date of approval of provisional pension dated 25.06.2015.

Conclusion (1)- From above analysis, it is evident that there has been delay in payment of post-retirement benefits due to pendency of Departmental Enquiry proposal against the applicant. Proposal for department enquiry was submitted by respondent no. 4 on 11.04.2012 and query on the same was raised by respondent no. 3 not earlier than 16.01.2015, i.e. after retirement of the applicant. It is inferred that the course of departmental enquiry could have been easily decided and concluded by respondent no. 1 and 3 prior to retirement of the applicant.

Conclusion (2) - It is also evident from the fact that the pension proposal was first submitted by respondent no. 4 on 18.06.2015 that by that time, the applicant must have provided information in Form -5. Despite this, the respondents Nos. 1, 3 and 4 have contended that the applicant did not submit information in Form-5 and therefore, the delay can be attributed to the applicant only; however, they have not produced any evidence to substantiate this contention.

Conclusion (3) - It is also evident from the fact that the pension proposal was submitted to respondent no. 2 i.e., the Accountant General (A & E)-II, Nagpur for the first time on 18.06.2015 i.e. before the Departmental Enquiry proposal was closed by the Public Health Department vide letter dated 16.07.2015 (page No. 42 of paper book) that, the driving force behind the same may be the complaint petition was filed by the applicant before the Lokayukta on 24.02.2015 and proceedings that was going on before Hon'ble Lokayukt. Therefore, delay period can be taken from the date any post-retirement benefit was due for payment and date of actual payment.

(C) Calculation of Interest.

S.N.	Item	Amount Paid Rs.*	Due Date *	Actual Date of Payment *
1	DCRG	7,000,00/-	01.10.2014	15.12.2016
2	GIS	1,74,316/-	01.10.2014	19.06.2016
3	Pension	10,33,391/-	Excluding the period of payment of provisional pension	16.11.2016
4	GPF	13,83,328/-	01.10.2014	01.08.2015
5	Leave Salary Encashment	7,79,770/-	01.10.2014	17.06.2017
6	Commutation of Pension	Not admissible as pension at full rate had been paid		

*\*(a) One month's margin given for completing process of payment from date of retirement.*

*(b) The respondents are directed to verify the information populated in Table of Calculation of Interest given in para 5 (C) above for correctness, as the respondents have not commented on information submitted by the applicant during the hearing of this Original Application.*

6. After considering all facts before me and evidence before me, I hereby, pass following order:-

**ORDER**

The Original Application No. 265 of 2017 is hereby allowed in following terms:-

(A) Respondent Nos. 1, 3 and 4 are hereby directed to pay simple interest at the rates made applicable to General Provident Fund (G.P.F.) deposits from time to time for the period of delay counted from due date to date of actual payment of each item i.e. D.C.R.G., G.I.S., Pension, G.P.F. and leave salary encashment. The payment should be made within a period of three months from the receipt of the order.

(B) No order as to costs.

**PLACE : AURANGABAD.**  
**DATE : 27.10.2021.**

**(BIJAY KUMAR)**  
**MEMBER (A)**