

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 787 OF 2018

(Subject – Interest on Delayed Payment)

DISTRICT : BEED

Shahadeo S/o Sahebrao Bangar,)
Age : 62 years, Occu. : General Mechanic,)
S.R.T.R. Medical College and Hospital,)
Ambajogai (Retired w.e.f. 31.07.14 on)
Superannuation, presently residing at)
Kalika Nagar, Nagar Road, Beed,)
District Beed.)

.... APPLICANT

V E R S U S

1. **The State of Maharashtra,**)
Through Secretary,)
Medical Education and Drugs Department,)
Mantralaya, Mumbai-32.)
2. **The Director of Medical Education and Research,)**
Mumbai, III rd Floor, St. George Hospital)
Campus, Near C.S.T., Mumbai.)
3. **The Dean,**)
S.R.T.R. Medical College and Hospital,)
Ambajogai, District Beed.)

... RESPONDENTS

APPEARANCE : Shri J.S. Deshmukh, Advocate for Applicant.

: Shri N.U. Yadav, P.O. for Respondents.

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

DATE : **24.03.2023.**

ORDER

1. By filing this Original Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant is claiming interest on the delayed payment of amount of gratuity, DCRG and arrears of pension till the date of actual payment as per the provisions of Rule 129A and 129B of the Maharashtra Civil Services (Pension) Rules, 1982.

2. The facts in brief of this case are as follows :-

(i) The post of "General Mechanic" has been created under the Director of Medical Education and Research i.e. the respondent No. 2 vide G.R. dated 17.06.1976 (part of Annexure A-2 collectively) with pay scale of Rs. 110-175/-.

(ii) As the applicant was eligible and qualified for the post of "General Mechanic", he was appointed on that post in S.R.T.R. Medical College and Hospital, Ambajogai, District Beed vide order dated 06.08.1976 (part of Annexure A-2 collectively) issued by the respondent No. 3 i.e. the Dean, S.R.T.R. Medical College and Hospital, Ambajogai, Dist. Beed.

(iii) The applicant subsequently got first time bound promotion w.e.f. 01.11.1994 in the promotional pay scale of the post of Sr. Technician of Rs. 1400-2300/- (pay scale of Rs. 5000-8000 in Fifth Pay Commission) w.e.f. 01.01.1996 vide communication dated 19.07.2002 (Annexure A-3).

(iv) The applicant retired w.e.f. 31.07.2014 on attaining the age of superannuation from the post of "General Mechanic" and was thereof relieved as per relieving letter dated 31.07.2014 (Annexure A-1).

(v) Upon application dated 01.08.2014 made by the applicant, the respondent No. 3 i.e. the Dean, S.R.T.R. Medical College and Hospital, Ambajogai, Dist. Beed sanctioned provisional pension to the applicant for the period of six months i.e. from 01.08.2014 to 31.01.2015 vide communication dated 14.08.2014. No Dues Certificate was also received by the applicant required for processing pension papers.

(vi) In fact, the Pay Verification Unit, Aurangabad vide communication dated 21.05.2014 raised objection as to under what order the applicant was placed in the pay scale of Rs. 1400-2300 w.e.f. 01.10.1994 as first time bound

promotion and also about the post of "General Mechanic". The respondent No. 3 i.e. the Dean, S.R.T.R. Medical College and Hospital, Ambajogai, Dist. Beed furnished requisite information in that regard to the respondent No. 2 i.e. the Director of Medical Education & Research, Mumbai vide communications dated 08.07.2014 and 27.07.2015 (Annexure A-4 collectively) requesting to include post of General Mechanic in Maharashtra Civil Services (Revised Pay) Rules, 2009.

(vii) In view of above, pension and pensionary benefits were not released for the period of about 16 months for no fault on the part of the applicant.

(viii) Therefore, the applicant filed O.A. No. 811/2015 seeking retirement benefits. During pendency of the said O.A, as per the direction given by this Tribunal, the objections taken by the Pay Verification Unit were removed by the respondents and thereby vide Notification dated 21.09.2016, the post of "General Mechanic" held by the applicant was included at Sr. No. 219(A) in the Notification dated 22.04.2009 of VI TH Pay Commission issued by the Finance Department by giving him pay scale of Rs. 1200-

1800 in IV TH Pay Commission and Rs. 4000-6000 in V TH Pay Commission and Rs. 5200-20,200/- Grade Pay of Rs. 2400/- in VI TH Pay Commission. This Tribunal disposed of the said O.A. No. 811/2015 vide order dated 21.11.2016 (Annexure A-5) by giving direction to extend all pensionary benefits to the applicant within the period of three months.

(ix) Only after filing of Contempt Petition, pensionary benefits came to be extended to the applicant belatedly as per the chart reproduced hereunder :

SR NO	PARTICULARS OF AMOUNT	AMOUNT IN RUPEES	DUE DATE	CLAIMING INTEREST
1	Part of Gratuity	24,846/-	31.07.14	07.08.17
2	D.C.R.G.	3,44,000/-	31.07.14	04.05.18
3	Monthly pension W.E.F. 01.02.15 to 31.07.15	1,48,440/-		18.10.16
4	Monthly pension W.E.F. 01.08.15 to 28.02.17	3,63,132/-		13.02.17
5	Commutation of Pension	3,80,646/-		04.08.17

(x) As per direction given by this Tribunal, the applicant had made representations dated 09.03.2017 and 11.07.2018 (Annexure A-6 collectively) requesting the respondents to pay the interest on delayed payment.

(xi) It is the contention of the applicant that the applicant received pensionary benefits due to administrative lapses and negligence of the officials of the respondents and for no fault of the applicant. Hence, the present Original Application.

3. This Application is resisted by filing affidavit in reply on behalf of the respondent Nos. 1 to 3 by one Dr. Rajesh S/o Sahebrao Ovhal, working as Associate Professor (Microbiology) in the office of the Dean, Swami Ramanand Theerth Rural Government Medical College and Hospital, Ambajogai, District Beed in the respondent No. 3. Thereby he denied all the adverse contentions raised in the Original Application and by raising following specific contentions :-

(a) That there was no administrative lapse or negligence in paying retiral benefits to the applicant belatedly. The delay was on account of objection being raised by the Pay Verification Unit. The post of "General Mechanic" held by the applicant was not there in Maharashtra Civil Services (Revised Pay) Rules, 2009. Meanwhile provisional pension was paid to the applicant for the period of six months i.e. from 01.08.2015 to 31.01.2015 vide order dated 14.08.2014 (Annexure R-1).

(b) Further in order to fulfill objection raised by the Pay Verification Unit, the requisite steps were taken to include the post of "General Mechanic" in Maharashtra Civil Services (Revised Pay) Rules, 2009 by writing a letter dated 08.07.2014 (Annexure R-2) by the respondent No. 3 i.e. the Dean, S.R.T.R. Medical College and Hospital, Ambajogai, Dist. Beed to the No. 2 i.e. the Director of Medical Education & Research, Mumbai and in turn, submitted proposals by the respondent No. 2 i.e. the Director of Medical Education & Research, Mumbai to the Government dated 13.11.2014, 28.11.2015 and 30.01.2016 (Annexure R-3 collectively).

(c) Meanwhile, the respondent No. 2 i.e. i.e. the Director of Medical Education & Research, Mumbai extended provisional pension to the applicant for the period of 01.02.2015 to 31.07.2015 i.e. for the period of six months and also paid the amounts of GIS, GPF and Leave Encashment as mentioned in letter dated 27.07.2015 (Annexure R-4) and 15.09.2016 (Annexure R-5).

(d) Further, the respondent No. 2 i.e. the Director of Medical Education & Research, Mumbai issued Notification

dated 29.09.2016 (Annexure R-6) to the effect of including the post of "General Mechanic" in Maharashtra Civil Services (Revised Pay) Rules, 2009 in Medical Education and Drugs Department at Sr. No. 219.

(e) Thereafter updated pay fixation of the applicant was made on 07.10.2016 and on 10.10.2016 original service book of the applicant was sent for pay verification to the Pay Verification Unit, Aurangabad as reflected in documents at Annexure R-7 collectively.

(f) Accordingly, the Pay Verification Unit on 20.10.2016 updated pay fixation of the applicant and on 08.11.2016 fresh pension papers were submitted to the A.G. office for sanction of pension and pensionary benefits as per Annexure R-8 collectively. The office of A.G. Nagpur approved the pension proposal as per the order dated 05.12.2016 (Annexure R-9).

(g) Due to wrong pay fixation, excess payment was made to the applicant, of which recovery was arising. The respondent No. 3 i.e. the Dean, S.R.T.R. Medical College and Hospital, Ambajogai, Dist. Beed, therefore by various letters (Annexure R-10 collectively) sought guidance from

the respondent No. 2 i.e. the Director of Medical Education & Research, Mumbai. As per the direction of respondent No. 2, the respondent No. 3 issued order of recovery of excess amount from pensionary benefits and submitted bill (Annexure R-10 collectively).

(h) Thereafter the respondent No. 2 submitted proposal to the office of A.G. Nagpur for sanction of Commutation of Pension on 06.05.2017, which was granted by the office of A.G. Nagpur on 17.07.2017 (Annexure R-12 collectively).

(i) In view of above, the respondents have followed all the procedure in accordance with law for extending pension and pensionary benefits to the applicant and there was no administrative lapse or negligence. In the circumstances, the Original Application is devoid of merits and the same is liable to be dismissed.

4. I have heard the arguments at length advanced by Shri J.S. Deshmukh, learned Advocate for the applicant on one hand and Shri N.U. Yadav, learned Presenting Officer for the respondents on the other hand.

5. From the rival pleadings and documents on record, the admitted facts, which immerge before me are that the applicant retired on superannuation w.e.f. 31.07.2014 from the post of General Mechanic as reflected in relieving letter dated 31.07.2014 (Annexure A-1). The applicant received the pension and pensionary benefits as per the chart given in para No. 10 of the Original Application, which is refereed hereunder again for ready reference :-

SR NO	PARTICULARS OF AMOUNT	AMOUNT IN RUPEES	DUE DATE	CLAIMING INTEREST
1	Part of Gratuity	24,846/-	31.07.14	07.08.17
2	D.C.R.G.	3,44,000/-	31.07.14	04.05.18
3	Monthly pension W.E.F. 01.02.15 to 31.07.15	1,48,440/-		18.10.16
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5	Commutation of Pension	3,80,646/-		04.08.17

The above-said chart would show that all the amounts were received by the applicant belatedly. It is not the contention of the respondents that there was any failure on the part of the applicant as regards processing pension papers.

6. The respondents have come out with a case that there was no administrative lapse on their part in processing pension

papers and the applicant got pension and pensoinary benefits belatedly only for administrative reasons. The respondents have pleaded the ground of objection raised by the Pay Verification Unit and the time consumed in the same. Moreover, the post of General Mechanic held by the applicant was not incorporated in Maharashtra Civil Services (Revised Pay) Rules, 2009 and it was incorporated only by Notification dated 21.09.2016. In view of that, the pension papers were required to be re-submitted by removing the objections raised by the Pay Verification Unit in that regard. The Pay Verification Unit, Aurangabad vide communication dated 21.05.2014 raised objection as to under what order the applicant was placed in the pay scale of Rs. 1400-2300 w.e.f. 01.10.1994 as first time bound promotion and also about the post of "General Mechanic".

7. Considering the facts involved in the present matter, the provisions of Rule 129A of the Maharashtra Civil Services (Pension) Rules, 1982 dealing with interest on delayed payment of gratuity and Rule 129B of the said rules dealing with interest on delayed payment of pension would come into play. Those provisions are as under:-

"129A-Interest on delayed payment of gratuity.

- (1) *Where the payment of retirement gratuity or death gratuity, as the case may be, has been delayed beyond the period of three months from the date retirement or death, and it is clearly established that the delay in payment was attributable to administrative lapse, an interest at rate applicable to General Provident Fund deposits shall be paid on the amount of gratuity, in respect of period beyond three months:
Provided that, no interest shall be payable if the delay in payment of such gratuity was attributable to the failure on the part of the Government servant to comply with the procedure laid down in this Chapter:
Provided further that no interest shall be payable in the case where a provisional gratuity is paid.*
- (2) *Every case of delayed payment of retirement gratuity or death gratuity, as the case may be, shall suo motu, be considered by the concerned Administrative Department, and where the Department is satisfied that the delay in the payment of such gratuity was caused on account of administrative lapse, that Department shall sanction payment of interest after obtaining the admissibility report, in this behalf, from the Accountant General (Accounts and Entitlement), Maharashtra, Mumbai or Nagpur, as the case may be. The approval of the Finance Department for the payment of such interest shall not be necessary.*
- (3) *In all cases, where interest has been paid on retirement gratuity or death gratuity, as the case may be, due to administrative lapse, the concerned Administrative Department shall fix the responsibility and take disciplinary action against the Government servant or servants concerned, including the concerned officer, who are found responsible for the delay in the payment of such gratuity and recover the amount of interest required to be paid from the Government servant or servants concerned including the concerned officer who are found responsible for the delay in the payment of such gratuity.]*
- (4) *If a result Government's decision taken subsequent to the retirement of a Government servant, the amount of gratuity already paid on his retirement is enhanced on account of-*
- (a) grant of pay higher than the pay on which gratuity, already paid was determined, or*
 - (b) liberalisation in the provisions of these rules from a date prior to the date of retirement of the Government servant concerned,*

no interest on the arrears of gratuity shall be paid.

129 B. Interest on delayed payment of Pension.

- (1) *Where the payment of pension or family pension authorised after six months from the date when its payment became due, an interest at the rate applicable to General Provident Fund deposits shall be paid on the amount of pension, in respect of the period beyond six months:
Provided that, no interest shall be payable if the delay in payment of pension was attributable to the failure on the part of the Government servant to comply with the procedure laid down in the Chapter:
Provided further that no interest shall be payable for the period for which a provisional pension is paid. In case of Government servant to whom provisional pension is sanctioned an interest as provided shall be paid after a period of six months from the cessation of provisional pension till the final pension is authorised.*
- (2) *Every case of delayed pension or family pension, as the case may be, shall suo motu, be considered by the concerned Administrative Department, and where the Department is satisfied that the delay in the payment of such pension was caused on account of administrative lapse, that Department shall sanction payment of interest after obtaining the admissibility report in this behalf from the Accountant General (Accounts and Entitlement), Maharashtra, Mumbai or Nagpur, as the case may be. The approval of the Finance Department for the payment of such interest shall not be necessary.*
- (3) *In all cases, where interest has been authorized on pension or family pension, as the case may be, due to administrative lapse, the concerned Administrative Department shall fix the responsibility and take disciplinary action against the Government servant or servants concerned, including the concerned officer, who are found responsible for the delay in the payment of such pension and recover the amount of interest required to be paid from the Government servant or servants concerned including the concerned officer who are found responsible for the delay in the payment of such pension.]*
- (4) *If as a result of Government's decision taken subsequent to the retirement of a Government servant, the amount of*

pension already paid on his retirement is enhanced on account of-

- (a) grant of pay higher than the pay on which pension, already paid, was determined; or*
- (b) liberalisation in the provisions of these rules from a date prior to the date of retirement of the Government servant concerned, no interest on the arrears of pension shall be paid.]”*

8. Even if the contentions raised by the respondents are considered, it is seen that there was no role of the applicant in getting first time bound promotion wrongly by any of misrepresentation or fraud. The delay is on account of administrative reason only, which can be ultimately stated to be administrative lapses. In such circumstances, in my considered opinion, the applicant shall be entitled for the interest on delayed payments under various heads in accordance with Rule 129A and 129B of the Maharashtra Civil Services (Pension) Rules, 1982. Hence, the following order :-

ORDER

The Original Application is allowed in following terms:-

- (A) The respondents are directed to pay the interest in accordance with the provisions of Rule 129A of the Maharashtra Civil Services (Pension) Rules, 1982 on the amount of Gratuity and D.C.R.G. and interest as per the Rule 129B of the Maharashtra Civil Services

(Pension) Rules, 1982 on the amount of arrears of pension and commutation of pension in accordance with rules within a period of three months from the date of this order, failing which, the respondents will be liable to pay the interest @ 12% till it's realization.

(B) Accordingly, the O.A. stands disposed of with no order as to costs.

PLACE : AURANGABAD.

DATE : 24.03.2023.

(V.D. DONGRE)
MEMBER (J)

KPB S.B. O.A. No. 787 of 2018 VDD Interest on delayed payment.