

BEFORE THE GOA HUMAN RIGHTS COMMISSION
PANAJI – GOA

Proceeding No. 06/2021

Shri Ajit V. Naik,
R/o Ashiyana, D-3/S3,
Behind Galaxy Hospital,
Shelpe, Dhuler, Mapusa,
Bardez – Goa 403507.

... Complainant

V/s

1. The Collector,
North Goa District,
Panaji – Goa.
2. The Director,
Directorate of Accounts,
Panaji – Goa.
3. The Manager,
State Bank of India Link Branch,
Panaji - Goa.

... Respondents

INQUIRY REPORT/ORDER

(30th August, 2021)

The Complaint dated 06/01/2021 was received in this Commission from the Complainant, Shri Ajit V. Naik, in respect of non-payment of his pension and retiral dues.

2. It is his case that he retired on superannuation as an Awal Karkun, from the Office of Collector, North Goa w.e.f. 31/01/2020 and yet after over 11 months, he has not been paid his retiral benefits.

3. On perusing the complaint, the Commission by Order dated 13/01/2021, called for the report from the Respondents.

4. The Respondent No.1, the Collector of North Goa District, filed their reply on 06/02/2021. They stated that the pension case papers of the Complainant had been submitted to the

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Respondent No.2, the Director, Directorate of Accounts, Panaji by letter dated 25/09/2019 but were returned by the Respondent No.1 on 07/01/2020 with observations.

5. They stated that the pay of the Complainant was revised as per the Seventh CPC w.e.f. 01/01/2006 and due to lock down of Covid 19 w.e.f.23/03/2020, the pay fixation was submitted to Respondent No.2 by letter dated 29/05/2020 for approval.

6. The Respondent No.2 again raised observations and the Respondent No.1 immediately revised the pay fixation statement by letter dated 06/10/2020 and they requested the Respondent No.2 to settle the revised pay on priority basis.

7. The Respondent No.1 further stated that the Respondent No.2 revised the pay fixation on 11/01/2021 and on the same day, the Order sanctioning encashment of 300 days was issued by the Respondent No.1 and was submitted to the Directorate of Accounts and the GPF bill of the Complainant was cleared on 20/01/2021.

8. The Respondent No.2, the Director, Directorate of Accounts filed their reply on 24/02/2021, stating that the pension case of the Complainant had been forwarded by the Respondent No.1 on 25/09/2019 and had been received by the Respondent No.2 on 27/09/2019. They stated that the pension case was returned back to Respondent No.1 on 07/01/2020 seeking necessary clarification and compliance from the Respondent No.1.

9. The Respondent No.2 further stated that the pension case was re-submitted on 04/02/2021 and the same has been authorized for payment of pension, and pensionary benefits by letter dated 23/02/2021 and PPO No.Goa-A/28024.

10. In respect of the release of provident fund amount, the Respondent No.2 stated that GPF final payment application dated 3/08/2020 was received on 14/08/2020 and was returned for observations by letter dated 21/09/2020.

11. The Respondent No.2 states that the GPF application was re-submitted by the Respondent No.1 by letter dated 06/11/2020. The Respondent No.2 states that the final payment bill was passed by the Respondent No.2 on 20/01/2021. They stated that the delay in finalization and settlement of retirement benefits to the Complainant was not caused by the Respondent No.2 and prayed that the proceedings be dropped.

12. During the course of proceedings, the Respondent No.1 filed further letter dated 24/02/2021, stating that the pension case of the Complainant has been settled by the Respondent No.2 on 23/02/2021.

13. Subsequently, the Complainant filed his further application dated 15/03/2021 before this Commission, stating that his pension case remained to be settled fully as no interest and compensation is paid and also raised grievance that an amount of Rs.1,41,468/- termed as amount overpaid has been deducted from the retirement gratuity without any notice to him thereby preventing him from praying for waiving

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the same, in accordance with the rulings of the Hon'ble Supreme Court and the Office Memorandum dated 08/07/2008. At that stage, the Respondent No.3 was added, but have not filed any reply.

14. On the copy of above application being served on the Respondents, the Respondent No.1 filed their report on 16/04/2021. They stated that the Office of the Respondent No.1 was designated as the District Disaster Management Authority to Control the ongoing Covid 19 pandemic and the officials were drafted for various tasks, as per the guidelines issued by the Government and they could complete the observations raised by the Directorate of Accounts, as and when possible. They stated that the queries raised by the Respondent No.2 were further complied by the dealing hand visiting personally, as time permitted and the delay of settlement of the pension was unintentional.

15. In respect of the recovery due to extra increment which was granted to the Complainant in the year 1999, they stated that the Complainant may make an application for reimbursement of recoveries deducted from his gratuity which will then be processed in terms of Office Memorandum No.18/03/2015-Estt.(Pay-I) dated 02/03/2016, issued by the Department of Personnel & Training, Government of India.

16. Thereupon, the Complainant filed his application dated 01/07/2021, stating that his pension for the period from February 2020 till April 2021 has been credited to his Savings

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Bank Account at SBI, Mapusa Branch and now is regularly paid in his account.

He reiterated that no notice was given to him for waiving the deduction of overpaid amount of Rs.1,41,468/-. He also stated that the reasons given for delay are not attributed to him and he claimed interest on the delayed payments.

17. To the said application, the Respondent No.2 has filed their reply dated 03/08/2021. They stated that due care is taken by the Respondent No.2 to settle pension cases in time and the pension case was resubmitted after a period of more than one year by the Respondent No.1.

18. In respect of the deduction of the overpaid amount of Rs.1,41,468/-, they stated that this was sanctioned by the Respondent No.1 in terms of Rule 71(2) and Rule 71(3)(b of CCS (Pension)) Rules, 1972.

19. In respect of the claim of the Complainant for waiving of the recoveries of overpayment of pay and allowances, they stated that the waiver is to be initiated by the Respondent No.1. In respect of the interest claimed by the Complainant on the GPF amount, the Respondent No.2 states that the interest is payable up to the period of six months after superannuation and as the Complainant retired on 31/01/2020, he is eligible for interest upto August 2020, which has been already paid to him in the GPF final payment bill.

20. The Commission heard the Complainant in person and also heard Shri Swapnil Palini, LDC on behalf of the

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Respondent No.1 and Ms. Siddha Kuttikar, Accountant, on behalf of the Respondent No.2. None remained present for the Respondent No.3.

21. The Commission finds that the delay on the part of the Respondent No.1, in processing the pension papers, was not intentional and due to the added responsibilities as the Respondent No.1, since March 2020, has been functioning as the District Disaster Management Authority, for control of the ongoing Covid 19 pandemic. As such, the Commission does not deem it necessary to award interest on the delayed payment of the pension.

22. The Commission finds that there was no deliberate delay on part of Respondent No.1 in submitting the pension case after clearing the clarifications sought by Respondent No.2. So also, from the table submitted by Respondent No.2, of the “Date of receipt of the Claims” and “Date of payment”, the Commission also finds that there was no delay on part of Respondent No.2.

23. However, in respect of the deduction of Rs.1,41,468/- from the gratuity amount, the Commission finds that the Respondent No.1 had not given any notice to the Complainant before the deduction and deprived him of an opportunity to make his representation thereon, thus violating his human rights.

24. Accordingly, the Commission disposes of the proceedings
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as under :

(a) The Complainant is given liberty to make an application to the Respondent No.1 for reimbursement of the amount of Rs.1,41,468/- recovered from his gratuity amount, on grounds deemed fit, within 15 days from the date of the receipt of this Order.

(b) The Commission recommends that upon receipt of the said application the Respondent No.1 consider the same, in terms of the Office Memorandum No.18/03/2015-Estt.(Pay-I) dated 02/03/2016, issued by the Department of Personnel & Training, Government of India and transcribed and adopted by the Government of Goa by Office Memorandum No.8/7/2008 Fin(R&C), dated 07/03/2017.

Date : 30/08/2021

Place : Panaji-Goa.

Sd/- (Justice U.V. Bakre) Chairperson Goa Human Rights Commission	Sd/- (Desmond D'Costa) Member Goa Human Rights Commission	Sd/- (Prמוד V. Kamat) Member Goa Human Rights Commission
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