

**BEFORE THE GOA HUMAN RIGHTS COMMISSION**  
**PANAJI – GOA**

**Proceeding No. 181/2019**

Vidya Shetkar,  
F-6, Mandavi Residency,  
Housing Board Colony,  
Alto Porvorim, Goa-403521.

... Complainant

V/s

1) The Chairman,  
Shri Damodar Education Society,  
Gudi-Paroda, Quepem-Goa.

2) The Director of Education,  
Directorate of Education,  
Porvorim – Goa.

3) The Dy. Director of Education,  
South Educational Zone,  
Margao – Goa.

... Respondent

**INQUIRY REPORT/ORDER**

(7<sup>th</sup> October, 2021)

The Complaint dated 11/07/2019 was received from the Complainant, Smt. Vidya Shetkar, seeking settlement of final withdrawal of her Provident Fund.

It is the case of the Complainant that she was working as Asstt. Teacher at in Damodar English High School at Gudi Paroda and she opted for voluntary retirement in the year 2015 and submitted her application dated 25/11/2016 for final withdrawal of GPF which is not settled and her human rights have been violated.

2. On perusing the complaint, by Order dated 16/07/2019, the Commission called for the report from the Respondent No.1, i.e. the Chairman, Shree Damodar Education Society, Gudi-Paroda.

3. The Respondent No.1 filed their report dated 31/08/2019

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stating that the Complainant had voluntarily resigned on 16/06/2015. In the year 2014, there were complaints regarding her bogus B. A. Degree Certificate. She opted for voluntary retirement from 16/06/2015 and was relieved from her duties.

The Respondent No.1 stated that, in the month of June, the forgery case was registered in the Quepem Police Station and the police took her service book and personal file for investigation. After receiving both the documents, they forwarded the pension papers to the South Educational Zone, Margao who refused her final GPF payment and requested to forward the papers after getting the report from the Vigilance Department.

4. The Complainant, then filed her Rejoinder dated 20/03/2020. She stated that she had opted for voluntary resignation. By subsequent letters, she requested the Respondent No.1 to consider her voluntary resignation as “voluntary retirement”. She also stated that the forgery case has been disposed by the Sessions Court. She stated that she had refunded the excess payment which she received after her promotion for the period from 28/12/2010 to 16/06/2015 being an amount of Rs.45,690/-. She also stated that there is no vigilance case pending at present and to direct the Respondent No.1 and Director of Education to settle her GPF withdrawal and pension case.

5. Subsequently, the Complainant filed her second Rejoinder dated 20/08/2020 that she had complied with the information demanded by the Respondent No.1, for finalizing her GPF and pension case.

6. The Commission, by Order dated 20/08/2020 called for the report from the Director of Education, Porvorim, who was added as Respondent No.2.

7. On 10/12/2020, the Commission added Dy. Director of Education, South Educational Zone, Margao as Respondent No.3 and called for their report.

8. The Respondent No.3 filed their report dated 13/01/2021 stating that their office has received the pension case of the Complainant on 06/04/2016 and it was returned back to the School seeking details. The Respondent No.3 stated that the case was re-submitted by the School and was again returned seeking clarification.

9. The Respondent No.3 have further stated that the pension papers were returned and re-submitted seven times by the Respondent No.1 and lastly, on 24/11/2020, the same has been forwarded to the Directorate of Accounts, Panaji.

10. At the stage of final arguments, Shri Rohidas Shetkar, husband of the Complainant was heard and Respondent No.1 was absent. Shri D. Chawdikar, Dy. Director of Education (Legal) was heard on behalf of the Respondents No.2 & 3. The Complainant has relied on the Judgment of Supreme Court in support of his arguments.

11. In **Sudip Chandra Sarkar vs Tata Iron & Steel Co. Ltd., AR 1994 SC 1064**, the Hon'ble Supreme Court was considering a case where the plaintiff had rendered continuous service for 20 years and 8 months and he had

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submitted the letter of resignation which was accepted by the Respondent. On these facts, the Apex Court held as under :

“ The termination of service was thus on account of resignation of the plaintiff being accepted by the Respondent. The plaintiff has, within the meaning of the expression, thus retired from service of the Respondent and he is qualified for payment of gratuity in terms of Rule 6”.

This authority was referred to in the Judgment of the Hon'ble Supreme Court in the case of **Sheelkumar Jain vs New India Assurance Co. Ltd.**, decided by the Division Bench of the Hon'ble Supreme Court on 28/07/2011.

It was held therein that the Court will have to construe the statutory provisions in each case to find out whether the termination of service of an employee was a termination by way of resignation or a termination by way of voluntary retirement.

12. The husband of the Complainant had argued that though the Complainant had given a letter for resignation, the same has to be treated as voluntary retirement and her pensionary benefits have to be released.

13. The Respondent No.3 has stated that the papers of the Complainant were re-submitted by the School by letter dated 05/12/2018 for considering her case as voluntary retirement. The Respondent No.3 had then asked the School for the letter of the Complainant to consider her voluntary retirement in place of voluntary resignation and the Order from the Competent Authority accepting the voluntary retirement.

14. The Respondent No.3 had stated that the pension papers were again re-submitted along with the Court Orders and the School letter dated 07/01/2019 by the Respondent No.1 and subsequently, by letter dated 24/11/2020 and the same was forwarded to the Directorate of Accounts.

15. The letter dated 12/02/2021 of the Respondent No.1 addressed to the Respondent No.3 indicates that the Respondent No.1 had entered the words “Voluntary Retirement” in her service book as advised by the Director of Education, Porvorim.

**16. Section 18(a) of The Protection of Human Rights Act, 1993 reads as under:-**

“(a) where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned Government or authority—

(i) to make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary;

(ii) to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons;

(iii) to take such further action as it may think fit”.

17. Under Section 18(a) of the Protection of Human Rights Act, 1993, the Commission recommends that, the Respondents No. 2 & 3 consider that the Complainant had “**voluntarily retired**” on 16/06/2015 and ensure that the Complainant receives her pension and GPF amount in accordance with law.

18. Under Section 18(e) of the Protection of Human Rights Act, 1993, the Commission shall send a copy of the Inquiry Report together with its recommendations to the Respondent and the Respondent shall within a period of one month or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon to the Commission.

19. Copy of the Inquiry Report be sent to the Respondents No. 2 & 3, calling for their comments, including the action taken or proposed to be taken within a period of one month or on or before 29/10/2021, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

Date : 07/10/2021

Place : Panaji-Goa.

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