

GOA HUMAN RIGHTS COMMISSION
PANAJI – GOA

Proceeding No. 195/2018

Shri Agnelo A. Fernandes,
Sr. Accountant,
Goa Football Development Council,
Dr. Shyama Prasad Mukherjee Stadium,
Sports Authority of Goa Complex,
Taleigao-Goa. ... Complainant

V/s

The Member Secretary,
Goa Football Development Council,
Dr. Shyama Prasad Mukherjee Stadium,
Sports Authority of Goa Complex,
Taleigao-Goa. ... Respondent

INQUIRY REPORT

The complaint dated 19/09/2018, was received in this Commission on the same day from the Complainant, stating that there have been human rights violations, alleging that his pay and allowances have not been paid for seven months.

2. The Complainant has stated that he is a retired Assistant Accounts Officer of the Government of Goa and was re-employed as Sr. Accountant in February 2016 in the Goa Football Development Council which was housed at the Myles High Hotel & Towers Pvt. Ltd, Patto Plaza, Panaji-Goa.

3. It is the case of the Complainant that in the year 2017, Government accorded sanction to shift the Goa Football Development Council office from the then existing premises to Government premises at Dr. Shyama Prasad Mukherjee Stadium, Sports Authority of Goa Complex, Taleigao-Goa and the entire responsibility of shifting the premises including restoration of the old premises and setting the new office was entrusted to the Sports Authority of Goa.

4. It is the case of the Complainant that the Chairman of Goa Football Development Council in consultation with the Chief Engineer, Sports Authority of Goa in turn authorized the Complainant to hold on the keys of the old premises till the restoration work and its handing over to the owner of the premises and he was directed to be present at regular intervals and oversee the restoration work and to see that no damage is caused to the existing interiors and flooring.

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5. It is the case of the Complainant that in March 2018, he was surprised to note that his salary was not credited to his bank account and withheld by the Member Secretary of GFDC for want of his written explanation which had been already furnished. He stated that till he filed the complaint before this Commission, his monthly pay and allowances were not released by the Respondent for the last seven months and his fundamental rights have been violated.

6. The Commission perused the complaint and by Order dated 21/09/2018, called for the report from the Member Secretary, Goa Football Development Council.

7. The Respondent filed their report dated 19/10/2018, before the Commission. The Respondent states that the responsibility of shifting the premises by dismantling the existing office fixtures and restoration of premises after shifting was assigned to the Sports Authority of Goa (SAG) and was their sole responsibility. They stated that without the knowledge, permission or direction from the Member Secretary, the Complainant got himself involved in the work of shifting and took over the possession of the vacated premises at Myles High Corporate Hub. The Respondent stated that time and again, the Complainant was directed to handover the premises of Myles High either to the owner or to the Chief Engineer of SAG and inspite of repeated instructions, he retained the possession of the vacant premises for a prolonged period of time from 17th September 2017 to May 2018. The Respondent also stated that on 16/03/2018, the Complainant was issued a Memorandum where the Complainant was directed to handover the vacated premises and its keys to the owner of Myles High Corporate Hub immediately and obtain "No Dues" certificate from the owner. In his reply dated 21/03/2018, the Complainant had stated to the Respondent that the owner of Myles High Corporate Hub refused to take possession of the keys until and unless missing items were replaced.

8. It is case of the Respondent that due to the misbehavior and act of indiscipline on the part of the Complainant, which could cause financial loss to the Council, it was decided to withhold part of the monthly salary of the Complainant, in case the Council decided to recover the loss from the Complainant.

9. The Respondent states on account of the serious lapse on the part of the Complainant, the Council had to incur expenditure on restoration and replacement of missing items from the vacated premises and finally the Council amicably settled the entire issue of retained vacant premises with the owner of Myles High in the month of May 2018, on 11/05/2018. The Respondent stated that after resolution of all issues, the withheld component of monthly remuneration of the Complainant has been released without any deductions. The Respondent attached some documents to the Report.

10. The Complainant in turn filed his Rejoinder dated 12/11/2018, stating that the keys of the vacated premises were to be handled by the Complainant as per the verbal instructions of the Hon'ble Chairman which were confirmed by written remarks in two files. He stated that the question of disobeying the orders of the Member Secretary did not arise, as the instructions were issued by the Hon'ble Chairman who is the Supreme Authority of the Council as per the Constitution of the Council. The Complainant also stated that there was no question of recovery of the losses from his pay and allowances as the vacated premises were officially and physically handed over on 12/05/2018 and his salary was withheld till 30th September 2018 and was released only after serving a Show Cause Notice by this Commission and this implies an ulterior motive and an act of harassment by the Respondent. He prayed that he may be paid compensation along with interest for eight months as deemed fit by the Commission. He also attached some documents to his Rejoinder.

11. Written arguments have been filed by the Complainant and the Respondent. The Commission also heard the Complainant and Adv. Ms. Harsha Naik for the Respondent.

12. From the complaint, the report/reply, the Rejoinder, the documents of both sides, the written arguments and oral submissions, it is clear that the Complainant was a retired Government Officer, who had been re-employed on contract basis with the Goa Football Development Council from 2016 till 30/10/2018.

13. On the one hand, it is the case of the Complainant that he was not paid his monthly remuneration for a period of seven months from February 2018 to August 2018. In response, the Respondent has stated that there was indiscipline on the part of the Complainant in holding the keys and without any authority of the Member Secretary. But from the documents produced by the Complainant, which were annexed to his written arguments, it is seen that

on 11/05/2018, the Member Secretary had himself endorsed that the matter has been handled by Chairman, Chief Engineer, SAG and Shri Agnelo, Sr. Accountant from GFDC and the Member Secretary is not privy to any discussion or decision taken in the matter. This was in response to the Note put up by the Complainant as Sr. Accountant that the restoration work has been done and handing over of the premises as mutually agreed, by the Hon'ble Chairman, Chief Engineer, SAG and Managing Director, Myles High, to pay the rent with all taxes upto October 2017 and it was mutually agreed to handover the keys.

14. The records indicate that there was no indiscipline and misconduct by the Complainant as he was entrusted the responsibility of handling the shifting of office. This is seen from the documents obtained by the Complainant from the Goa Football Development Council under the RTI Act, where there is a "Note", that the Complainant was authorized to take charge of shifting the office from Myles High to Shyama Prasad Mukerjee Stadium and was entrusted with the keys and the joint inspection with SE Chimulkar to handover the premises to Myles High. This supports the stand of the Complainant that he was authorized to hold charge of the keys. As such, the Commission finds no merits in the submissions on behalf of the Respondent that the Complainant held on the keys and disobeyed the orders of the Member Secretary. Even otherwise, the matter was amicably settled with the owner on 11/05/2018.

15. The Complainant having been employed on contract basis was being paid the monthly contractual amount of Rs. 39,116/-. There is no dispute that he was not paid his contractual amount from February 2018, as the Member Secretary had withheld the same. As the matter was settled by the owner on 11/05/2018, at least soon after that his monthly salary ought to have been released but was only released by NEFT payment, on 06th October 2018. It can be seen from the extract of bank passbook of the Complainant that he was paid his arrears from February 2018 to August 2018 including his September amount, which amounts to Rs. 2,92,928/-.

16. The Member Secretary has made out no grounds for delay of payments of the contractual amount that was due to the Complainant from February 2018 till August 2018. Under Section 18 (a) (i) of the Protection of Human Rights Act, 1993, the Commission can make recommendations to make payment of compensation or damages to the Complainant or to the victim or members of his family as the Commission may consider necessary.

17. In the present case, soon after filing the complaint in this Commission on 19/09/2018, the Goa Football Development Council eventually paid the Complainant his dues by NEFT on 06/10/2018, amounting to Rs. 2,92,928/-. For the mental harassment caused to the retired Government servant by unduly harassing him by withholding his dues, the Commission finds that he is entitled for a reasonable compensation.

18. Taking interest at the rate of 10% per annum on Rs. 2,92,928/-, the compensation works out to around Rs.29,000/-. As the Commission has concluded that the Complainant was subjected to mental harassment and was deprived of his human rights by the Member Secretary, the Commission recommends that the Member Secretary of the Goa Football Development Council pay to the Complainant compensation of Rs.29,000/- (Rupees twenty nine thousand only) and recover the same from the then Member Secretary, GFDC, ShriAleixo F. da Costa.

19. Under Regulation 17 of the Goa Human Rights Commission (Procedure) Regulations, 2011, a copy of the report and the recommendation shall be sent to the Member Secretary, GFDC, calling upon it to furnish its comments on the report including action taken or proposed to be taken, within a period of one month from the date of receipt of the Report and recommendations.

Date: 10/12/2020

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