

*Esha***IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO. 734 OF 2024**

Deepa Dongrikar, wife of Devendra
Dongrikar, aged 64 years, Indian
National, resident of Katte Bhat, Ella,
Old Goa, Goa.

... PETITIONER

Versus

1. Director of Health Services,
Government of Goa, having office
at Directorate of Health Services,
Campal, Panaji-Goa.
2. State of Goa, through its Chief
Secretary, having office at
Secretariat, Porvorim, Bardez-Goa.

... RESPONDENTS

Mr. Parikshit S. Sawant Advocate for the Petitioner.

Mr. Siddharth Samant, Additional Government Advocate for the
Respondents.

**CORAM: ALOK ARADHE, CJ. &
M. S. SONAK, J.**

DATED: 12th MARCH 2025

ORAL JUDGMENT: [per Chief Justice]

1. In this Writ Petition, we issue Rule. The Rule is made returnable forthwith. With the consent of the learned Counsel for the parties, heard finally.

2. In this Petition, the Petitioner has assailed the validity of the action of the Respondents in deducting an amount of Rs.2,97,324/- from the amount of gratuity due to the Petitioner, on superannuation.

3. Facts giving rise to the filing of the present Petition, in a nutshell, are that the post of Library Assistant was advertised on 27.01.1984. The Petitioner in response to the aforesaid advertisement took part in the selection process. The Petitioner on 27.01.1987 was appointed on the post of Library Assistant. The services of the Petitioner were regularised on 27.01.1987. Thereafter, the Petitioner was granted the benefit of the Assured Career Progression (ACP) Scheme. The Petitioner after rendering 30 years of service, on 31.03.2014, superannuated as Library Assistant. However, Respondent No. 1 has deducted an amount of Rs.2,97,324/- from the gratuity amount of the Petitioner. Hence this Petition.

4. Learned Counsel for the Petitioner submits that neither any notice nor an opportunity of hearing was granted to the Petitioner before deducting the aforesaid amount from the dues payable to the Petitioner.

5. On the other hand, the learned Additional Government Advocate for the Respondents submitted that the Petitioner made a representation on 10.09.2018 and Respondent No. 1, Director of Health Services, Panaji, Goa will decide the representation.

6. We have considered the rival submissions made by both sides and perused the record.

7. The principles of natural justice inhere in every decision making process. It is trite law that principles of natural justice apply, until and unless they are expressly excluded by the statute. It has not been pointed out on behalf of the Government that principles of natural justice in the factual situation of the instant case have been instituted by any statutory provisions. The action of withholding the amount which was due to the Petitioner on account of superannuation i.e. a sum of Rs.2,97,324/- is an action prejudicial to the interest of the Petitioner. Therefore, in the factual situation of the case, the State being the model employer, ought to have furnished the details of the amount which was payable to the Petitioner on superannuation and ought to have sought her comments before deducting the amount of Rs.2,97,324/-.

8. The aforesaid course of action has not been adhered to by the Director of Health Services, Government of Goa. The contention that principles of justice do not apply to the factual situation of the case being misconceived is rejected. Insofar as the submission that the Director of Health Services, Government of Goa, shall decide the representation dated 10.09.2018 made by the Petitioner is concerned, suffice it to say that the aforesaid representation was made before the Director of Health Services on 10.09.2018 i.e. six years ago. No explanation has been offered for the inaction on the part of the Respondents for a period of six

years. Therefore, in the peculiar circumstances of the case, we direct Respondent No. 1 to transfer the amount of Rs.2,97,324/- to the Account of the Petitioner within a period of two weeks, failing which, the aforesaid amount shall carry interest at the rate of 6% per annum.

9. Needless to say it would be open to Respondent No. 1 to recover the amount from the Petitioner, if so advised, in accordance with law and after due compliance with the principles of natural justice.

10. Accordingly, the Writ Petition is disposed of.

M. S. SONAK, J.

CHIEF JUSTICE