IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 23 OF 2025

Prakash H. Mayekar (Since Deceased), substiututed by his wife Pratiksha Prakash Mayekar, Shanta Durga Apts. Flat No. 03, Aged 54 years, Near Clergy Home, Dr. Minguel Miranda road, Margao, Goa. ... Petitioner

V e r s u s

1. Director of Technical Education, Govt. of Goa with his Office at Directorate of Technical Education Alto, Porvorim, Goa.

2. Shri Alberto F. Dias), The Principal, Major ofage, Agnel Polytechnic Verna, Salcete, Goa. (Deleted as per Order dated 09.04.2025)

3. The Dy. Registrar, Agnel Polytechnic Verna, Salcete, Goa. ... Respondents

Mr. Vallabh Pangam, Advocate *for the Petitioner.*

Ms. Sulekha Kamat, Additional Government Advocate *for Respondent No. 1.*

Mr. Rishikesh Gawathankar, Advocate *for Respondent Nos. 2 and 3.*

CORAM: BHARATI DANGRE & NIVEDITA P. MEHTA, JJ.

DATE: 21st July, 2025

ORAL JUDGMENT (*Per Bharati Dangre, J.*)

1. Rule, made returnable forthwith with the consent of the learned Counsel for the parties.

The Petitioner, a retired employee of Directorate of Technical Education, superannuated on rendering service of 29 years on 31.05.2017. Pursuant to his retirement, he was entitled for release of the pensionary benefits as he rendered qualifying service as 'Foreman' in Agnel Polytechnic at Verna, headed by the Respondent no. 2 and managed by Respondent no. 3.

It is the pleaded case of the Petitioner that he was governed by the Central Civil Service (Pension) Rules 1972 and in the wake of the Office Memorandum dated 02.12.1999 with regard to the subject Provident Fund to the teaching and non-teaching staff of Government Aided Polytechnics in the State of Goa. The General Provident Fund (Central Services) Rules, 1960, was made applicable to the employees by its amendment w.e.f. 01.04.1999. The Government also stipulated the working procedure for effecting implementation of the provident fund scheme in respect of those employees who have opted or deemed to have opted to the Pensionary and General Provident Fund Scheme.

The scheme contemplated that the Government Aided Polytechnic discontinued the contribution of the management share to the existing provident fund account of the employees w.e.f. 01.04.2000 and the Institution shall close the existing account as on 31.03.2000 and the balance at the credit of the employees comprising of the management share and the employee's contribution along with interest accrued on each of the same shall be computed.

2. As far as the Petition is concerned, since on his retirement the Petitioner has demised, the Petition is prosecuted by his wife Ms. Pratiksha Prakash Mayekar and it sought a relief to the effect that the despite his retirement on 31.05.2017, the amount of pension was received by him on 07.02.2019 and therefore the interest is claimed on the said amount on account of delay at the rate of 8%.

According to Mr. Pangam, the learned Counsel for the Petitioner, there is no justifiable reason why the pensionary benefit could not have been released in favour of his client, as the Central Civil Service (Pension) Rules 1972 was applicable to him and immediately on attaining the age of superannuation on 31.05.2017, the amount ought to have been disbursed in his favour.

Relying upon the relevant provisions of Central Civil Service (Pension) Rules 1972, he would submit that there is a timeline prescribed for preparation of pension papers i.e. two years before the date on which the Government Servant is due to retire and for completion of pension papers, the timeline prescribed is not later than six months as on the date of retirement. In the backdrop of the said Rules, it is his contention that on his date of retirement i.e. 31.05.2017, pension papers of the Petitioner should have been prepared by the Institute so that on his retirement, pension could have been disbursed to him. However, there was enormous delay on the part of the Institution for completion of the pensionary papers and forwarding it to the Accounts Officer which resulted in delay in paying the pensionary benefits to him as he received the amount only on 07.02.2019 and since the delay according to the Petitioner is not attributed to him but to the Respondents and he claims interest on the said amount.

In his representation, referred on 10.06.2019, the Petitioner claimed that interest of Rs.3,76,422/- on the amount of pension of Rs.32,200/-, death cum retirement gratuity in the sum of Rs.1,49,393/- and on the amount of commutation amounting to Rs.1,94,821/- as per the annexure annexed to the said representation, bifurcating the interest amount payable since the amount was paid after delay of 20 months.

3. The Petitioner received a reply from the Director of Technical Education on 26.09.2019, stating that the pension case papers, duly complied with the observations pointed out by the Directorate of Accounts were received on 30.01.2019 and further submitted without any delay to the Directorate of Accounts on 01.02.2019. Thereafter the pension case was settled by the Directorate of Accounts, Panaji, vide its letter dated 07.02.2019. It is categorically stated that till the objection of the Directorate of Accounts regarding non deposit of entire contribution of CPF (including that of Employer share and Employee share) into Government Treasury, at the time of opting a joint pension scheme from earlier CPF scheme were complied with the pensionary benefits could not be sanctioned.

Since the employer Agnel Polytechnic adopted a stand that the employee had withdrawn a sum of Rs.1,00,000/- from CPF account which had been debited from the Employer's contribution to the CPF Account, and this share ought to have been deposited in the requisite head only upon the entire CPF contribution being deposited in the Government Treasury, the employee could not have been held entitled to release of the pensionary benefits.

It is in the wake of this aforesaid reason, the claim of interest on delayed payment of retirement benefits such as gratuity, computation and pension came to be rejected.

This constrained the Petitioner to approach the Goa Human Rights Commission by instituting proceedings and the Commission by Order dated 12.07.2024 rejected the claim of interest on the ground that there was no violation of any human right.

4. The learned Counsel Ms. Kamat representing the Respondent-Authority would rely upon the affidavit filed by the Director of Technical Education, where the claim of the Petitioner that he is entitled to interest amount of Rs.3,76,422/-, is denied. The affidavit in paragraph nos. 6 and 7, state thus :

> "6. I say that upon examining all relevant facts and documents, and hearing submissions made by the parties, the Commission has clearly concluded that there is no delay or negligence on part of Respondents in enabling the Petitioner's husband obtain his Pensionary benefits. The delay is entirely due to non-compliance with the mandatory provisions requiring to deposit of the entire accumulated amount (including Employee's share and Employer's share) in the Contributory Provident Fund Account of the employee concerned, into Government Treasury. The Petitioner's husband (employee) had withdrawn Rs. 1.00 lakh from his Contributory Provident Fund Account in 1999, which had been debited from Employer's contribution to the Contributory Provident Fund Account, thereby resulting in Employer's (Agnel Polytechnic, Verna) share being shown as NIL. The Petitioner's husband was informed that till the sanctioned withdrawal of Rs. 1.00 lakh by him was refunded and deposited in the Govt. Treasury, he would not be eligible for Pension. I further say that the Pension case of the Petitioner's husband therefore remained unsettled, solely on account of the employer's share being, shown as NIL, which was due to withdrawal of amount of Rs. 1.00 lakh by him in 1999, and debited from the Employer's share, thereby leading to Employer's share being reduced to NIL.
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> 7. With reference to Paragraph 11 of the Petition, I say that the delay in sanctioning the pension is solely on account of non-compliance by the Petitioner's husband with the observation of Directorate of Accounts, that the Petitioner's husband's pension case cannot be settled unless the accumulated amount in his CPF Account (including Employee's share and Employer's share) is deposited into Govt. Treasury. In the instant case, the Employer's share was shown as NIL, since Petitioner's husband had withdrawn amount of Rs. 1.00 lakh from his CPF Account in the year 1999, which had been debited from Employer's contribution to CPF Account, resulting in Employer's share being shown as NIL. The Petitioner's husband was informed that

> his Pension case cannot be settled unless the entire accumulated share of his CPF Account including Employee's share and Employer's share) is deposited into Govt. Treasury. Till this amount was deposited in Govt. Treasury, he was not eligible for Pension. Thereafter, as a goodwill gesture, the Respondent No 2 deposited once again (despite having contributed Employer's share regularly till that date) this amount withdrawn by the Petitioner's husband, into Govt. Treasury, so that the pension matter is settled. It is therefore evident that the pension case of the Petitioner's husband remained unsettled, till the compliance with the mandatory requirement of depositing the entire CPF accumulation of the employee into the Govt. Treasury."

5. In the affidavit, the entire blame has been put on the Petitioner as it is stated that on account of non-credit of entire CPF Account (including that of Employer's and Employee's share) in the Government Treasury, the release of the payment in favour of the Petitioner were delayed.

Ms. Kamat would place before us a communication addressed to the Directorate of Technical Education on 01.03.2018, wherein it is categorically stated that in the wake of the Office Memorandum dated 02.12.1999 issued by the Director of Technical Education, it was directed that the Institution shall close the existing accounts and shall work out the exact amount of employees contribution alongwith interest and shall deposit separately each of the two components, in lumpsum, in Government Treasury through separate challans under the specified Head of Accounts. It is categorically stated that a specific approval of the competent authority relaxing the requirements of the rules would have to be accorded for granting the pensionary benefits in absence of the Management Share contribution and as the employees contribution was Rs.61,016/-, there had to be a matching management share under CPF which is mandtory to be deposited in the Government treasury to be eligible for pensionary benefits under the provisions of Circular dated 02.12.1999.

6. We have perused the communication and since it form the genesis of the response which is filed before us, we have carefully perused the Office Memorandum dated 07.12.1999 which is placed on record at exhibit A-1.

The Office Memorandum relating to the subject "Provident Fund to the teaching and non-teaching staff of Government Aided Polytechnics in the State of Goa", relates to the extension of the General Provident Fund (Central Services) Rules, 1960, and is applicable to the Goa State Government Employees teaching and non-teaching staff of Government Aided Polytechnics in the State of Goa. When the question came to applying the said Rules of 1960, the Government of Goa adopted the Rules as amended from time to time and made it applicable to the teaching and non-teaching staff of Government Aided Polytechnics in the State of Goa w.e.f. 01.04.1999. It also prescribed the working procedure for affecting implementation of the provident fund scheme in respect of those employees who have opted or deemed to have opted to the Pension and General Provident Fund Scheme.

The detailed procedure contemplate that the Government Aided Polytechnics shall discontinue the contribution of the management's share to the existing Provident Fund Account w.e.f. 01.04.2000 and the Institution shall close the existing Account of the employees as on 31.03.2000 and credit the balance of their share to the Government Account along with interest. Thereafter, the procedure contemplated that the institution shall deposit separately each of the two components, in lumpsum, in Government Treasury through separate challans and that shall be credited under the specified Head of Accounts of the State "Employees Contribution along with interest accrued thereon" and "Management share along with interest accrued thereon."

7. The Memorandum thereafter stipulated that such portion of employee's contribution which might have been re-invested in National Savings or other scheme shall be credited to the Head of Accounts immediately on their maturity along with interest accrued thereon. It was further clarified that every employee of Government Aided Polytechnic who had opted or deemed to have opted for General Provident Fund shall send an application along with nomination as prescribed in Rule 5 of G.P.F. Rules. The Salary Disbursing Officer shall thereafter deduct the employees subscription on the date on which the salary is paid to the staff and deposit the subscription in lumpsum through the chalan duly signed by the Director of Technical Education or any other Officer authorized by him on his behalf in the Government Treasury and prepare a schedule giving the details of the name of employee, allotted account number, amount of subscription, etc., which should be under the signature of the Head of the Institution who shall open an individual ledger account for the subscribers.

What is most relevant to note is that this Memorandum also permits a subscriber to withdraw an advance from the General Provident Fund for the reasons permissible under the Rules, upon he making an application to the Head of Institution in the prescribed application form, who shall after verifying if the account of the employee has sufficient credit balance and the reasons for seeking its withdrawal was genuine, recommend the case to the Director of Technical Education for issue of sanction of order as prescribed in the G.P.F. Rules.

8. It is the specific case of the Respondent that the Petitioner had withdrawn Rs. 1,00,000/- from his Contributory Fund Account in 1999 which had been debited from the Employer's contribution to the

Contributory Provident Fund Account thereby resulting in the employee's share shown as Nil.

This all happened in 1999 and the Petitioner stood retired on attaining the age of superannuation on 31.05.2017. It is this withdrawal which according to the Respondents had disentitled him the benefit of pension as it was all the while the stand adopted by the Respondents that the Petitioner's husband was informed that till the sanctioned withdrawal of amount of Rs. 1,00,000/- was first refunded and deposited in the Government Treasury, he would not have been eligible for pension and this has been projected as a ground for refusing to release his pension.

9. The Counsel for the management has pointed out to us that a sum of Rs. 61,060/- has been deposited by the Management in the Government Treasury Account on 30.01.2019 for Mr. Prakash Mayekar, an ex-employee of Agnel Polytechnic at Verna, Goa, who had retired on 31.05.2017, as the employee's share. At the outset, we must make it clear that the component of Provident Fund is different than the pension which becomes payable to the employee on retiring from Government Service on satisfying the qualifying service criteria and we fail to understand the connect between the G.P.F. amount and the pension amount as according to us in service jurisprudence these are two different components of the pensionary benefits.

We quite understand that the Petitioner had withdrawn some amount and this was shown to have been withdrawn from the employee's contribution and in fact the employer i.e. the management was once again required to deposit a sum of Rs.61,000/- which they deposited in 2019 and only pursuant to the sum of amount deposited, a green signal was shown for the release of his pensionary benefits.

What we find is that the withdrawal of the amount of Rs.1,00,000/- is in the year 1999 and in fact it was open for the management as well as the Government to consider this withdrawal and replenish the account accordingly by asking him to deposit the deficit amount either by the management or employer, however on this count, withholding of the pensionary benefits, is completely unjustifiable as in the post retiral benefits, pension is one of the element whereas the Provident Fund as well as computation of pension stand on the other.

If there was some deficit amount, it was open for the Respondent to deduct it from the amount which was due and payable but merely on the ground that some amount was withdrawn by the Petitioner in the year 1999, definitely do not justify withdrawal of the entire pensionary amount including the amount of gratuity.

Though learned Additional Government Advocate vehemently submitted that it was the employee who was at fault, we do not intend to get into this as we direct the Respondent to compensate the Petitioner by paying interest at the rate of 6% from the date on which the amount of pension and gratuity was payable till the date when it was actually received by him. We must observe that the interest should be paid since the Petitioner was not at all responsible for his pensionary benefits along with gratuity as well as the amount of computation not being immediately released on his superannuation on 31.05.2017. We direct that this interest amount shall be re-computed by taking into consideration the representation of the Petitioner and with specific reference to annexures I, II and III thereof, and it shall carry an interest at the rate of 6%.

We must observe that the amount of interest which would be so computed shall be disbursed in favour of the Petitioner within a period of three months from today. However, we confer liberty upon the Director of Technical Education, Government of Goa, to conduct an inquiry to ascertain whether the management was responsible for the delay in its release.

10. The Petition is made absolute in the aforesaid terms.

NIVEDITA P. MEHTA, J. **BHARATI DANGRE, J.**