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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO. 65 OF 2025
IN
WRIT PETITION NO. 6972 OF 2022**

Nikhil Meena Patel

... Petitioner

Versus

Union Territory of Dadra & Nagar

Haveli and Daman and Diu and ors.

.... Respondents

Mr. Vikram N. Walawalkar i/b Mr. Amey C. Sawant, for the
Petitioner.

Dr. Sanjay Jain a/w Mr. Harsh Dedhia, for Respondents No. 1, 2 &
3.

**CORAM : M.S.KARNIK &
S.M.MODAK, JJ.**

DATE : 20th JANUARY, 2026

ORAL JUDGMENT (PER M.S. KARNIK, J.) :

1. Heard Mr.Walawalkar, learned counsel for the Petitioner and
Dr.Jain, learned counsel for Respondents No. 1 to 3.

2. The Petitioner alleges breach of the order dated
27/06/2024 passed by this Court in Writ Petition No. 6972 of
2022. The facts of the case in brief are that the Petitioner's
mother-Late Meena J. Patel, worked as an Upper Divisional Clerk

in the Union Territory Administration at the Government Industrial Training Institute. The Petitioner's mother expired on 14/11/2016. Late Meena Patel had filed a nomination for death-cum-retirement gratuity on 13/01/1999 under Rule 53(1) of the Central Civil Services (Pension) Rules, 1972 (for short 'the 1972 Rules') as per Form 1.

3. Late Meena J. Patel had nominated the Petitioner to succeed her for the death-cum-retirement gratuity. The nomination was in favour of the Petitioner, but since he was 8 years old, she referred to the name of her father, J.N.Rohit, as a second nominee as a guardian of the Petitioner. The entry was accordingly taken in the service book of Late Meena J. Patel. After the death of the Petitioner's father, the Petitioner's mother remarried Mr. Prakash V. Bhavsar on 28/11/2012.

4. Since the Petitioner did not receive an amount from the Respondent-Administration upon the death of his mother, the Petitioner, on 17/10/2018 filed an application under the Right to Information Act, 2005, seeking details of the amount disbursed. Respondent No.2 replied on 22/11/2018, where the Petitioner found out that the amount of death-cum-retirement gratuity was

disbursed to Mr. Prakash Bhavsar. The Petitioner made various complaints to the Respondent No.2. Upon enquiry, it was revealed that the office of Respondents No. 1 and 2 had disbursed the amount of death-cum-retirement gratuity to Mr. Prakash Bhavsar erroneously. This Court vide its judgment and order dated 27/06/2024 observed that the nomination was duly made and it is not in dispute that the Petitioner was entitled to receive the amount as per nomination. In paragraphs 13 to 16, this Court held thus :

“ 13. Whether the amount of death-cum-retirement gratuity due to the Petitioner was given to Mr. Prakash Bhavsar by mistake or collusion is not within the scope of this inquiry. Regardless of the reason for the wrongful payment to Mr. Prakash Bhavsar, it should not affect the Petitioner's entitlement to receive the death cum retirement gratuity. The Petitioner's rights arose after the nomination came into effect, and therefore the Petitioner was entitled to receive the amount. While the inquiry and recovery for the wrongful disbursement of the amount can proceed, it should not be connected with the payment to the Petitioner. These two aspects should be dealt with independently by the Respondents. The fact that the nomination was duly made is not debated. It is also undisputed that the Petitioner was entitled to receive the amount as per the nomination.

14. In these circumstances, we hold that the amount of death-cum-retirement gratuity due to the Petitioner upon the nomination coming into effect was unjustly withheld by Respondent Nos. 1 and 2. Consequently, the Petitioner is entitled to receive this amount with interest.

15. Accordingly, we direct that Respondent No. 2 will, without reference to the amounts paid to Prakash Bhavsar, calculate the amounts due to the Petitioner as a nominee of the deceased employee minus the amounts received by the Petitioner and pay the same to the Petitioner within 8 weeks from the date the order is

uploaded, including interest, if any, payable under the applicable rules.

16. As regards the recovery to be carried out against Prakash Bhavsar, the same may be continued by Respondent No. 3 and the money that is recovered by Respondent No. 3 can be deposited with Respondent No. 2.”

5. The Petitioner filed the present Contempt Petition alleging the breach of the order of this Court. During the pendency of the present Contempt Petition, it is not disputed that the principal amount of death-cum-retirement gratuity has been paid along with 6.25 % p.a. The grievance of the learned counsel for the Petitioner is that the Petitioner is entitled to the interest @ 12% p.a. In order to substantiate his contentions, Mr. Walawalkar relied upon Rule 68 of the 1972 Rules which reads thus :

“68. Interest on delayed payment of gratuity.”-(1) In all cases where the payment of gratuity has been authorised later than the date when its payment becomes due, including the cases of retirement otherwise than on superannuation, and it is clearly established that the delay in payment was attributable to administrative reasons or lapses, interest shall be paid at the rate applicable to General Provident Fund amount in accordance with the instructions issued from time to time.

Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers.]

(2) Every case of delayed payment of gratuity shall be considered by the Secretary of the Administrative Ministry on the Department in respect of its employees and the employees of its attached and subordinate offices and where the Secretary of the Ministry or the Department is satisfied that the delay in the payment of gratuity was caused on account of [administrative reasons or lapse), the Secretary of the Ministry or the Department shall sanction payment of interest.

(3) The Administrative Ministry of the Department shall be issue Presidential sanction for the payment of interest after the Secretary has sanctioned the payment of interest under sub-rule (2).

(4) In all cases where the payment of interest has been sanctioned by the Secretary of the Administrative Ministry or the Department, such Ministry or the Department shall fix the responsibility and take disciplinary action against the Government servant or servants who are found responsible for the delay in the payment of gratuity (on account of administrative lapses)”

6. Mr. Walawalkar has placed on record the manner in which the calculation is made while quantifying the interest @ 6.25 % from 2017 to 2018 and the interest rates considered by the Respondents were as per prevailing bank interest rates for the year 2017-2018. Mr. Walawakar submitted that this was an error committed by the Respondents in awarding interest @ 6.25 % p.a. instead of 12% p.a. In support of his submissions, Mr. Walawalkar relied upon the copy of the Office Memorandum dated 05/10/1999 issued by the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioner's Welfare), Government of India. Mr. Walawalkar invited our attention to Clause 2 (d) of the said Office Memorandum which reads thus:

“In respect of delayed payment of gratuity wherever it results in payment of penal interest at the rate applicable to GPF deposits (at present 12% per annum compounded annually) under Rule 68 of CCS (Pension) Rules, 1972, Secretary of the Administrative Ministry or Department would initiate action to fix responsibility at all levels to recover the amount from the concerned Dealing Official, Supervisor and Head of Office in proportion to their salary by following the prescribed procedures for the purpose. This should be

strictly enforced with immediate effect.”

Relying on Clause 2(d), it is submitted that the Petitioner is entitled to interest @ 12% p.a.

7. We have heard learned counsel for the Respondents No. 1 to 3. It is not in dispute that the principal amount along with interest @ 6.25 % p.a. has been paid. Though the nomination was in favour of the Petitioner, and the amount should have been paid to the Petitioner, the Respondents proceeded to pay the said amount wrongly to the another person. The aforesaid observations of this Court while disposing of the Petition make it clear that this Court had directed that as it is the fact that the amount had been paid to the another person, since the nomination was in favour of the Petitioner, it is the Petitioner who is entitled to receive the amount along with interest as may be applicable. The Respondents have accordingly awarded simple interest @ 6.25 % on the delayed amount.

8. Mr. Walawalkar was at pains to point out that the present is a case which clearly falls under Rule 68 of the 1972 Rules as delay in payment was attributable to administrative lapse and hence, the Petitioner's case is covered by the Office Memorandum dated

05/10/1999.

9. In our opinion, what this Court had held was that the Petitioner is entitled to the principal amount along with interest as may be applicable under the Rules. In the fact situation mentioned before this Court, this Court had directed the payment of amount to the Petitioner which was wrongly paid to the another person. Learned counsel for the Respondents No.1 to 3 urged that the question whether this is administrative lapse may be debatable, as the Respondents were under the bonafide impression that the amount had to be paid to the another person instead of the Petitioner. In any case, it is submitted by learned counsel for the Respondents that Clause 2 of Section 68 of the 1972 Rules clearly mentions that every case of delayed payment of gratuity shall be considered by the Secretary of the Administrative Ministry on the Department in respect of its employees and where the Secretary of the Ministry or the Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, the Secretary of the Ministry or the Department shall sanction payment of interest.

10. It is not possible for us to go behind the order passed by

this Court. There is no categoric finding that on account of administrative lapse that the delay in payment of gratuity was caused. It is seen that the gratuity amount was paid, but to a wrong person. We find that there is substantial compliance of the order passed by this Court.

11. In any case, it is open for the Petitioner to have his case considered by the Secretary of Administrative Ministry under Clause (2) of Rule 68 of the 1972 Rules. It is open for the Petitioner to approach the competent authority for payment of interest in terms of the Office Memorandum dated 05/10/1999 if it is the case of the Petitioner that delay in payment of gratuity was caused on account of administrative lapse. It is also open for the Petitioner to resort to appropriate remedy in law claiming interest @ 12.5 % p.a. It is however not possible for this Court in the exercise of the contempt jurisdiction to grant relief to the Petitioner as requested by learned counsel by awarding payment of interest @ 12.5% p.a.

12. An objection is raised by learned counsel for the Petitioner that despite specific orders of this Court, there has been delay on the part of the Respondents in implementing the judgment and

order of this Court. Dr. Jain, learned counsel for the Respondents No. 1 to 3 submitted that there was no intention on the part of the Respondents to flout the orders of this Court and in fact, the orders have been complied with. Dr. Jain on oral instructions of the Respondent No. 2 tenders an unconditional apology and submits that in any case within a period of 1 week from today, an affidavit tendering unconditional apology will be placed on record.

13. Since there is substantial compliance of the order passed by this Court, we do not proceed any further in this Contempt Petition. The Contempt Petition is disposed of.

14. If the Petitioner makes a representation under Clause (2) of Rule 68 of the 1972 Rules to the concerned Secretary within a period of 4 weeks from today, it is requested that the such representation be decided expeditiously and preferably within a period of 8 weeks from the date of receipt of the representation on its own merits and in accordance with law.

15. The Contempt Petition is disposed of.

(S.M.MODAK, J.)

(M.S.KARNIK, J.)