

# GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

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## **Complaint No.434/SIC/2010**

Shri H. M. Kulkarni,  
Flat No.F-4, Crimson Vale,  
Colva Road, Mungul,  
Margao –Goa.

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Complainant

V/s  
The Public Information Officer,  
Shri R. M. Ashrit,  
O/o the Executive Engineer,  
Electricity Department,  
Division III,  
Curti –Ponda –Goa.

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Opponent.

**CORAM :** Shri. Prashant S. P. Tendolkar State Chief Information Commissioner  
Smt. Pratima K. Vernekar, State Information Commissioner,

**Filed on : 07/05/2010**

**Decided on: 15/11/2016.**

## **O R D E R**

1. By this complaint the complainant has prayed for disciplinary proceeding and relief as per RTI Act 2005 against shri R. M. Ashrit, PIO as also for recovery of TA amount and necessary action.
2. The notice of this Complaint was send to the PIO as also to the complainant. On 25/10/2016, Advocate for the PIO filed a memo alongwith annexures showing therein that he is relieved from the services on attending the age of retirement on superannuation. Adv. A.Mandrekar appearing for the PIO submitted that in view of the retirement of the PIO the present proceeding cannot survive.
3. The notice send to the complainant was returned as unclaimed. Inspite of which he was given an opportunity to file his arguments within 10 days inspite of the said opportunity he failed to file any arguments and hence the present proceeding is required to be dealt with as per law.

...2/-

4. We have heard the PIO and also perused the material on records. The Point for our determination is:-
  - a) Whether the relief has prayed for by the complainant in the form of penalties can be imposed on the retired Employee.
5. The PIO appointed by the public Authorities are its employees. In case of default on the part of PIOs, u/s 18 read with section 20 of Right to Information Act, (Act) provides for imposition of penalties on erring PIO and not authorities. Thus the liability for payment of penalty is personal. Such penalty, which is levied in terms of monies, being personal in nature is recoverable from the salaries payable to such employee's payable during their services. Similarly recommendation of disciplinary action can also be issued during the period of service. After the retirement, what is payable to the employee are the pensionary benefits only.
6. In the present case undisputedly the then PIO has retired and is entitled for pension. Pension Act 1871, which governs such pension, at section (11) grants immunity to the pension holder against its attachment in following words.

**“ Exemption of pension from attachment: No Pension granted or continued by Government or Political consideration, or on account of past service or present infirmities or as a compassionate allowance and no money due or to become due on account of any such pension or allowance shall be liable to seizure, attachment or sequestration by process of any court at the instance of a creditor, for any demand against the pensioner or in satisfaction of a decree or order of any such court”**

7. Section 60 (1) (g) of civil procedure code which is reproduced here under also bars attachment of pensioner in following words:

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1) *The following particulars shall not be liable to such attachments or sale namely:*

- (a) .....
- (b) .....
- (c) .....
- (d) .....
- (e) .....
- (f) .....

(g) *Stipends and gratuities allowed to pensioners of the Government or of a local authority or any other employer, or payable out of any service family pension fund notified in the gazette, by the central government or the state Government in this behalf and political pension.*

From the reading of above provisions there leaves no doubt on the point of non –attachability of pension , gratuity etc.

8. Hon'ble Apex Court in Gorakhpur University and others V/s Dr. Shilpa Prasad Nagendra in Appeal (Civil) 1874 of 1999 have held:

*" This Court has been repeatedly emphasizing the position that pension and gratuity are no longer matters of any bounty to be distributed by Government but are valuable rights acquired and property in their hands....."*

9. Under the above circumstances this commission is neither empowered to order any deduction from pension or from gratuity amount for the purpose of imposing penalty or compensation . Thus the proceedings for penalty has become infructuous. Hence the proceedings stands closed.

Notify the parties.

Sd/-  
**(Prashant S. P. Tendolkar)**  
State Chief Information Commissioner  
Goa State Information Commission,  
Panaji-Goa

Sd/-  
**(Pratima K. Vernekar)**  
State Information Commissioner  
Goa State Information Commission,  
Panaji-Goa

