

GOA STATE INFORMATION COMMISSION

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

CORAM: Shri Juino De Souza: State Information Commissioner

Penalty case No.23/2011
in Appeal No.07/SCIC/ 2010 &
Penalty case No.24/2011
in Appeal No.09/SCIC/ 2010

1. Shri Juju Araujo,
R/o H. No.360,
2. Shri Luis Dias,
R/o H/No. 359,
Ruzaiwaddo,
Santa Cruz, Tiswadi –

.....Appellant

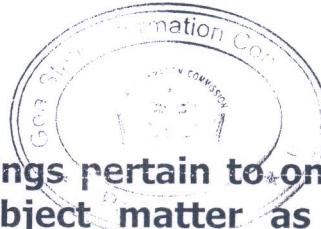
v/s

1. Then V. P. Secretary /
Public Information Officer,
Village Panchayat Santa Cruz,
Tiswadi – Goa.

..... Respondent

Relevant emerging dates:

Date of Hearing : 01-11-2016
Date of Decision : 01-11-2016

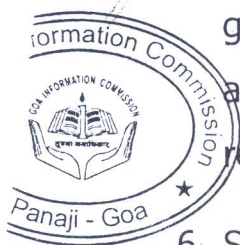


The above two penalty proceedings pertain to one and the same parties and involve similar subject matter as such they are clubbed together and disposed by one single common order.

ORDER

1. Brief facts of the case are that this Commission had vide order dated 15/02/2011 directed to issue penalty notice on the PIO and accordingly pursuant to the Notice issued, the penalty case was listed on board and during the hearing the Respondent former PIO, VP, SANTACRUZ, Tiswadi, Shri Pandurang R Pednekar is present in person.
2. The Respondent PIO submits that that he was the former PIO and has since retired on superannuation from the Government of Goa service on 30/11/2014 and as such his only sustenance is pension which itself is not sufficient to meet his expenses and that he is unable to pay any amount as penalty and as such requests the commission to drop the penalty proceedings. He files a written declaration and copy of the pension order which is taken on record.

3. The point for determination before the commission in all the above nine matters is whether Penalty u/s 20(1) can be imposed on a retired PIO and if yes whether and how the same can be enforced?
4. It is a fact that the said former PIO has retired from government service on 30/11/2014 and which fact is confirmed as per the pension order No. GOA-A/20227 dated 02/02/2015. Therefore when a PIO is no longer in government service and has since stopped drawing remuneration it is not possible for the Commission to either initiate any disciplinary action nor order any deduction from his salary besides the monthly pension received by him during his retirement cannot be touched or attached for the purpose of imposing penalty.
5. Therefore penalty proceedings are not enforceable on a retired government officer as he is not on the pay rolls of the government and his only sustenance which is pension cannot be touched for recovery or realization of money in any proceedings.
6. Several Judgments of the Hon'ble Supreme Court in Gorakhpur University & others V/s Dr Shilpa Prasad Nagendra in appeal (civil) 1874 of 1999, Union of India vs. Radha Kissan Agarwalla AIR 1969 SC 762, Union of India vs. Jyoti Chit Fund and Finance & others AIR 1976 SC 1163 and Union of India and another vs. Wing Commander R.R. Hingorani (Retd.) AIR 1987 SC 808 have in its decisions held that pension cannot be attached.
7. Further as per Circular No. F.7(28)E .V/53 dated August 25, 1985 issued by the Government of India, Ministry of Finance to the effect: "When a pensioner refuses to pay Government dues--The failure or refusal of a pensioner to pay any amount owed by him to Government cannot be said to be 'misconduct' within the meaning of Article 351 of the C.S.R. (Rule 8, C.C.S. (Pension) Rules, 1972). Also as per provisions of section 60(1)(g) of CPC, the pension payable to pensioners are not liable for attachment in any proceeding. Section 11 of The Pension act 1871 exempts pension from attachment.



8. In view of the above discussions it is clear that the pension amount received by a retiree on account of his past services cannot be attached in execution of any decree or order for realization of money, the Commission therefore comes to the conclusion that it is not possible to enforce any order of penalty under section 20(1) on a retired PIO.

All proceedings both the above Penalty case are accordingly closed.

Pronounced in open court before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.



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(Juino De Souza)
State Information Commissioner