

GOA STATE INFORMATION COMMISSION
Kamat Towers, seventh Floor, Patto, Panaji, Goa

Shri Prashant S. P. Tendolkar,
State Chief Information Commissioner

Penalty No.35/ 2016.
In
Appeal No. 185/SIC/2010

Mr. Premanand G. Phadte,
46/E, Arlem-Raia,
Salcete Goa - 403720.

.....Appellant.

V/s.

The Public Information Officer,
The Secretary,
Village Panchayat Raia,
Salcete – Goa.

.....Opponent

Decided on: 22/10/2019.

O R D E R

1. This commission, vide order, dated 02/03/2017, had directed the respondent, being the then PIO, to show cause as to why penalty case under sec.20(1) and 20(2) should not be started against him for denying the information, being the then PIO's
2. In pursuance to the said notice the then PIO, Shri Subhash Phadte and filed his reply and submitted that he and also another PIO Shri Mahesh Naik have retired.
3. The complainant, inspite of notice, failed to remain present for the hearing.
4. Perused the material on records. Considering the said submission this Commission is required to decide Whether the penalty can be imposed after tretirement of the PIO?
5. The PIO appointed by the public Authorities is its employees. In case of default on the part of PIO, sec. 18 read with section 20 of Right to

Sd/-

...2/-

Information Act, (Act) provides for imposition of penalties on erring PIO and not authorities. Thus the liability for payment of penalty is personal to PIO. Such penalty, which is levied in terms of monies, being personal in nature is recoverable from the salaries payable to such employee payable during his services. Similarly recommendation of disciplinary action u/s 20(2) 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 PIOs have retired and are 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 following words:

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

Sd/-

...3/-

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-attach ability of pension , gratuity etc.

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

“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 of the PIO after his retirement as penalty or compensation. Thus I hold that present proceedings for penalty has become infructuous and hence is required to be closed.

The proceedings therefore stands closed. The notice, dated 02/03/2017 stands withdrawn.

Notify the parties.

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