

## IN THE HIGH COURT OF BOMBAY AT GOA

**LD-VC-CW-361-2020**

Sadashiv Kanta Pednekar  
Ex-Sanitary Inspector,  
Directorate of Health Services,  
Panaji- Goa. .... Petitioner

V/s.

- 1 State of Goa  
Through the Chief Secretary,  
Porvorim- Goa.
- 2 Director,  
Directorate of Health Services  
Panaji- Goa. .... Respondents

Mr. C. Padgaonkar, Advocate for the Petitioner.

Mr. D.J. Pangam, Advocate General with Mr. P. Arolkar,  
Additional Government Advocate for the respondents.

**Coram:- M. S. SONAK &  
SMT. M. S. JAWALKAR, JJ.**

**Date:- 14<sup>th</sup> December, 2020.**

**ORAL JUDGMENT : (Per M.S.Sonak,J.)**

Heard Mr. C. Padgaonkar, learned Advocate for the  
Petitioner and Mr. D.J. Pangam, learned Advocate General with

Mr. P. Arolkar, learned Additional Government Advocate for the respondents.

2. Rule. Rule is made returnable forthwith at the request and with the consent of the learned Counsel for the parties.

3. The challenge in this petition is to the order dated 21/10/2020 made by the Appellate Authority dismissing the petitioner's departmental appeal against the penalty of compulsory retirement imposed upon him. The impugned order which is to be found at page 169 of the paper book of this petition reads as follows:

*“No.25/3/2020-I/PHD/2384                      Dated : 21/10/2020*

*To,  
Sadashiv Pednekar,  
H.No.77/1, Ucassium,  
Paliem, Bardez- Goa.*

*Sub: Appeal under Rule 26 of the CCS (CCA) Rules, 1965.*

*Sir,*

*I am directed to refer to your appeal dated 16/07/2020 addressed to Secretary (Health) on the subject cited above and*

*to inform you that the Appellate Authority has rejected your appeal on the grounds of being devoid of any substance and being time barred.*

*Yours faithfully,  
Sd/-  
(Swati A. Dalvi)  
Under Secretary (Health – II)*

4. Mr. Padgaonkar, learned Advocate pointed out that though appeal was instituted beyond the prescribed period of limitation, sufficient cause was shown in the memo of appeal itself and condonation of delay was sought for. He submits that the Appellate Authority has necessary powers to condone the delay. The cause shown by the petitioner does not appear to have been considered at all.

5. According to us, the impugned order dated 21/10/2020 is bereft of reasons. On this short ground the same is required to be set aside. We, therefore, set aside the impugned order dated 21/10/2020 on the ground that the same contains no reason whatsoever. The appeal will have to be decided afresh by the Appellate Authority.

6. However, in the peculiar facts of the present case we feel that it would be better if the petitioner is given a personal hearing by the Appellate Authority so that the petitioner, is in a position to make his submission on the aspect of delay and if, the delay is condoned, then on the merits of the appeal.

7. However, according to us, the respondents will have to process and pay the petitioner retiral benefits on the basis that he has been compulsorily retired from services. It will be open to the petitioner to accept such retiral benefits without prejudice to his contention that the penalty of compulsory retirement ought not be imposed on him. Accordingly, the respondent to process and pay the retiral benefits to the petitioner in accordance with law as early as possible and in any case within a period of two month from today.

8. The petition is therefore disposed of by making following:

#### ORDER

- a) The impugned order dated 21/10/2020 made by the Appellate Authority is hereby set aside.

- b) The appeal instituted by the petitioner is restored to the file of the Appellate Authority who shall now dispose of the same by granting personal hearing to the petitioner, in accordance with law and on its own merits but this time, giving reasons for whatever order it may choose to make. The appeal should be disposed of as expeditiously as possible and in any case not later than 4 months from today.
- c) The respondents to pay the retiral benefits to the petitioners as expeditiously as possible and within a period of two months from today. The petitioner is at liberty to accept such benefit without prejudice to his contention.
- d) Rule is made absolute to the aforesaid extent.
- e) There shall be order as to costs.

9. All concerned to act on the basis of an authenticated copy of this order.

**SMT. M. S. JAWALKAR, J.**

**M. S. SONAK, J.**

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