

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/LETTERS PATENT APPEAL NO. 494 of 2026****In****R/SPECIAL CIVIL APPLICATION/6038/2023****With****R/LETTERS PATENT APPEAL NO. 381 of 2026****In****R/SPECIAL CIVIL APPLICATION NO. 6036 of 2023****=====**
AVNISH PRAFULCHANDRA VAISHNAV**Versus****STATE OF GUJARAT & ORS.**
=====**Appearance:****BHAVIN B THAKAR(9371) for the Appellant(s) No. 1****MR ANTRIX KAPADIA, AGP for the Respondent(s) No. 1,2****MR BY MANKAD(440) for the Respondent(s) No. 3**
=====**CORAM: HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA****and****HONOURABLE MR.JUSTICE J. L. ODEDRA****Date : 29/07/2026****COMMON ORAL JUDGMENT****(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)**

1. **RULE.** Learned Assistant Government Pleader for respondent- State and learned counsel Mr. B.Y. Mankad for respondent Municipality waive service of Rule.

2. The appellants herein retired in 2018. However, 10% of their provident fund was withheld on the ground that they had been paid certain sums in excess of their entitlement.

3. The respondent municipality had called upon the Provident Fund authorities to withhold 10% of the Provident Fund, and accordingly, 10% of the PF that the



appellants were entitled to was withheld.

4. Ultimately, the appellants approached this Court contending that the withholding of provident fund by the authorities was illegal and this Court, by an order dated 15.02.2022 in Special Civil Application No.4726 of 2021, held that the respondents were not entitled to recover any amount from the provident fund of the appellants. Thereafter, this Court observed that it was open for the appellants to approach the competent authority by way of a representation in respect to their claim for interest on this withheld amount.

5. Accordingly, the appellants approached the Regional Commissioner and the Regional Commissioner, by his order dated 19.11.2022, rejected this claim for interest on the ground that there was no provision for payment of interest.

6. Being aggrieved by the said order, the appellants approached the learned Single Judge and the learned Single Judge, by the impugned order, has placed reliance on the judgment rendered in Letters Patent Appeal 1094/2022, which was a case in relation to the grant of interest on the dearness allowance that had been recovered. The Division Bench was dealing with a case where the recovery of dearness allowance was found to be bad and the same was ordered to be refunded along



with 6% interest. In that background, the Division Bench held that the payment of interest would be not permissible since in the case of ***State of Punjab and others v. Rafiq Masih (White Washer)*** reported in ***(2015)4 SCC 334***, the Supreme Court had not granted interest on the amounts that had been recovered.

7. In our view, this judgment can have no application since a claim for refund of dearness allowance recovered unlawfully cannot be equated with the withholding of a provident fund, even though the withholding of the provident fund was on the ground that some excess amounts had been paid to the employees.

8. In our view, it is a mandate of the law that whenever a provident fund is wrongfully withheld, the liability to pay interest would automatically accrue.

9. Since admittedly, the respondents had requested the authorities not to disburse the provident fund in full and it was found that this action was improper, it is obvious that the authorities would be liable to pay interest on this provident fund that had been withheld.

10. Since the withholding of provident fund was at the instance of the municipality, they would be liable to pay interest @ 9% per annum for the period during which this 10% provident fund amount or any other provident fund



amount was withheld. This amount shall be paid by the municipality within a period of EIGHT WEEKS.

11. It is, however, open for the municipality to approach the PF authorities and call upon them to reimburse this 9% interest or at least the statutory rate of interest since the PF authorities would have utilized the money that they have withheld for a beneficial purpose and would have earned interest on the said amount.

12. If such a request is made to the PF authorities, the same shall be considered and disposed of within a period of EIGHT WEEKS.

13. With the aforesaid observations and directions, the present Letters Patent Appeals stand DISPOSED OF. Rule is made absolute to the aforesaid extent.

Direct Service is permitted.

Sd/-
(N.S.SANJAY GOWDA,J)

Sd/-
(J. L. ODEDRA, J)

OMKAR