

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 570 OF 2022

DIST. : AHMEDNAGAR

Rajaram s/o Jabaji Sathe,)
Age : 60 years, Occu.: Retired as Clerk,)
R/o. Zagde Niwas, Near SBI Bank,)
Nagar Manmad Road, Rahata,)
Tq. Rahata, District Ahmednagar.)..

APPLICANT

V E R S U S

1. **The Collector (Revenue),**)
New Administrative Building,)
Nagar Aurangabad Road,)
Ahmednagar,)
Dist. Ahmednagar – 414 001.)
2. **The Tahsildar,**)
Tahsil Office, Rahata,)
New Administrative Building,)
Nagar Manmad Road, Rahata,)
Tq. Rahata,)
District - Ahmednagar – 423 107.)
3. **The Tahsildar,**)
Tahsil Office, Shrirampur,)
New Administrative Building,)
College Road, Shrirampur,)
Tq. Shrirampur,)
District - Ahmednagar – 413 709.)
4. **The Tahsildar,**)
Tahsil Office, Kopargaon,)
Old Tahsil Office, Kopargaon,)
Tq. Kopargaon,)
District - Ahmednagar – 423 601.)

...RESPONDENTS

APPEARANCE :- Shri V.B. Wagh, learned Advocate for the
applicant.

: Shri I.S. Thorat, learned Presenting
Officer for the respondents.

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 13th OCTOBER, 2023

ORAL - ORDER

1. Heard Shri V.B. Wagh, learned counsel for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. The applicant retired on 31.5.2020 on attaining the age of superannuation from Class-III post from the office of respondent no. 2. The applicant was appointed initially as Class-IV employee in the office of respondent no. 4 w.e.f. 28.12.1981 and on 25.1.1992 he was promoted as Class-III employee. On 2.6.2012 the applicant was transferred from the Tahsil Office, Shrirampur to Tahsil Office, Rahata and till his retirement he worked at Tahsil Office at Rahata. It is the grievance of the applicant that though the period of more than 3 years' elapsed after his retirement, he has not yet been received the retiral benefits, as well as, his regular pension has not yet

been determined. From the pleadings it appears that the service book of the applicant is not available with the office of respondent no. 2 from where the applicant got retired.

3. The respondent no. 2, as well as, the respondent no. 3 both have filed their affidavit in reply and both have taken the plea in their respective affidavits in reply that the service book of the applicant is not with them. The documents on record show that ample correspondence has been made by the applicant, as well as, the offices, where the applicant did work in regard to the service book of the applicant. However, the service book did not become available and that is the reason cited by all these respondents for not determining the amount of pension and for not paying the retiral benefits to the applicant.

4. In the present Original Application, the applicant has sought direction against the respondents for updation of his service book and to fix the pay of the applicant as per 6th and 7th Pay Commissions and further to release GPF amount and to prepare the pension papers for its onward submission to the Accountant General (I), Mumbai for determining the amount of pension and retiral benefits. As has been revealed from the statement made on behalf of the applicant, as well as, the respondents, the service book of the applicant is not traceable.

As noted hereinabove, ample correspondence had taken place in the erstwhile office, where the applicant had worked. However, the service book has not been traced. It is the case of the applicant that service book is missing from the year 2012.

5. It cannot be disputed that the service book is the property to be kept in custody of the employer. It is the matter of practice that after the transfer of employee, the erstwhile office forwards the service book to the office to which the Government employee is transferred by updating the entries therein. Though it is true that the primary responsibility of maintaining the service book and to keep it in safe custody is of the employer, since for several purposes the service book is frequently required and all the service related entries are required to be taken in the service book, the Government employee also is expected to be equally diligent in ensuring that the service book is forwarded by his erstwhile office to his new office and further that the entries are updated in the service book.

6. In the present matter, I have noticed that the said due diligence has not been shown by the present applicant. However for missing of the service book, the ultimate responsibility has to be cast on the respondents. In the present

matter, it appears to me that if the applicant insists for updation of his service book and presses for other reliefs claimed in the O.A., matter may be inordinately prolonged. Considering this aspect, when I asked the learned counsel appearing for the applicant to ascertain from the applicant whether he is keen in ensuring that he starts getting regular pension soon and whether he is ready to accept the retiral benefits which may be determined on the basis of his last drawn pay. Learned counsel on instruction submitted that the applicant will be satisfied if he starts for getting pension and retiral benefits determined on the basis of his last pay.

7. It is not the case of the respondents that the applicant is not entitled for the pension or retiral benefits. It is also not the case of the respondents that any recovery is directed against the applicant or that any Departmental Enquiry or criminal prosecution etc. is pending against the applicant. The only reason for not releasing his pension and pensionary benefits is for want of his service book.

8. After having considered the entire circumstances as discussed hereinabove, it appears to me that the applicant cannot be deprived from getting pension and pensionary benefits. Few months have already lapsed, as such, it is

necessary to adopt some practical approach in the present matter. It appears to me that on the basis of last drawn pay of the applicant, his pension and pensionary benefits can be determined. I therefore, deem it appropriate to pass the following order :-

ORDER

- (i) The respondent No. 2 shall prepare the proposal by determining the amount of pension, as well as, pensionary benefits on the basis of last pay drawn by the applicant and forward it to the concerned Accountant General Office for carrying out further process. The Accountant General Office shall without insisting for service book shall process the pension proposal of the applicant and if it requires may take the necessary undertakings by the applicant, as well as, by the office head of the applicant.
- (ii) The entire exercise is to be carried out within a period of 12 weeks from the date of this order.
- (iii) If on determination of amount on the basis of last pay certificate if any mistake occurs, it would be open for the applicant to make representation in that regard to the competent authority.
- (iv) The Original Application stands disposed of in the aforesaid terms without any order as to costs.

VICE CHAIRMAN

Place : Aurangabad

Date : 13.10.2023

ARJ O.A. NO. 570 OF 2022 (PENSION)