

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
CONTEMPT APPLICATION NO. 35/2017
IN
REVIEW APPLICATION NO. 7/2016
IN
ORIGINAL APPLICATION NO 1235 OF 2009**

DISTRICT : THANE

Shri Suryakant T. Shinde)
Town Planner, R/o: G-3, C Wing,)
Trinetra CHS, Shivdham Complex,)
Ambarnath [E], Dist-Thane 421 501.)...**Applicant**

Versus

1. Dr Shri Nitin Karir, IAS)
Principal Secretary, Urban Development)
Department, Mantralaya, Mumbai 40032)
2. The Principal Secretary,)
Urban Development Department,)
Mantralaya, Mumbai 400 032.)
3. Shri Noreshwar R. Shende,)
Director of Town Planning & Valuation,)
M.S, Central Bldg, Pune 411 005.)
4. The Director of Town Planning &)
Valuation, M.S, Central Building,)
Pune 411 005.)...**Respondents**

Shri Ajay Deshpande with Shri V.P Potbhare, learned advocate for the Applicant.

Ms Swati Manchekear, learned Chief Presenting Officer for the Respondents.

CORAM : **Justice Mridula R. Bhatkar (Chairperson)**

DATE : **12.08.2021**

ORDER

1. Heard Shri Ajay Deshpande with Shri V.P Potbhare, learned advocate for the Applicant and Ms Swati Manchekear, learned Chief Presenting Officer for the Respondents.

2. Learned C.P.O, pursuant to the order dated 23.7.2021, produces letter dated 2.8.2021, issued by the Desk Officer, Urban Development Department, wherein the applicant who stood retired on superannuation on 28.2.2021, his order of retirement was to be issued and further proposal of the applicant is to be forwarded to the Government for treating the period from 3.5.2006 to 28.2.2021 as duty period. It is also stated in the said letter that all retirement dues be paid to him. Learned C.P.O further produces copy of order dated 11.8.2021, issued by the Respondents wherein the period of suspension from 3.5.2006 to 28.2.2021 is treated as duty period for all purposes and he is entitled to receive all pay and allowances which was payable to him as a Town Planner. Learned C.P.O also produces copy of order dated 9.8.2021, wherein as the applicant completed 58 years on 14.2.2021, he was relieved from Government service w.e.f 28.2.2021. Accordingly the applicant is entitled to pay and allowances and pensionary benefits. Copy of the letter dated 2.8.2021, orders dated 11.8.2021 and 9.8.2021 is taken on record and marked as Exh. 'A', 'B' & 'C'. The Respondents have sought time till Winter Session as there are financial repercussion and budgetary provisions is to be made by seeking approval of the State Legislature. The Respondents state that they will put up matter on priority basis in the Winter Session.

3. Learned counsel for the applicant states that he is keen to know when the regular pension is going to start. On query, learned C.P.O informs that the Respondents will start paying Provisional Pension to the applicant from 1.10.2021. For fixation of pay of the applicant, the Respondents will require period of two to three months thereafter. Learned C.P.O states that regular pension will be paid to the applicant from 1.1.2022

4. Learned counsel for the applicant submits that there is no compliance of the order of this Tribunal and the Contempt Application be kept alive. Learned counsel for the applicant submits that the applicant cannot survive on the basis of papers as the Hon'ble Supreme Court says that the Government cannot run on security and Bank Guarantee.

5. Considered the submissions of the learned counsel for the applicant. The orders passed by the Respondents on 11.8.2021 are accepted. I am of the view that there is no need to keep this Contempt Application pending as the order is complied with and actual payment will be made in due course as informed above. The application is disposed of with following directions:-

- (a) It is obligatory on the part of the Urban Development Department to clear the file the applicant in respect of the pay fixation, pensionary benefits, arrears of pay and allowances.
- (b) It is mandatory on the part of the Urban Development Department to move the file of the applicant before the Finance Department for making budgetary provisions, keeping in view the orders of this Tribunal, which holds the filed as the appeal filed by the Respondents before the Hon'ble Supreme Court was dismissed on 29.6.2021.
- (c) The Respondents to note that if the orders regarding grant of regular pension to the applicant is not complied with on or before 1.1.2022 and payment of arrears of pay and allowance is not

made on or before 15.2.2022, then liberty to initiate another contempt.

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 12.08.2021
Dictation taken by : A.K. Nair.

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