

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NO.184 OF 2021
IN
ORIGINAL APPLICATION NO.574 OF 2020**

Mrs. Lalita Dattatraya Veer,)
(Since before marriage -)
Smt. Aruna Bhikaji Kharate),)
Age : 69 Yrs., Occ. Nil, Retired as)
Education Officer (Secondary) (Class-1),)
Zilla Parishad, Nashik,)
R/o. Prashant Garder, A/P. Agaskhind)
Via Deolali, Camp Bhagur, Tal. Sinnar,)
Dist. Nashik.)
Address for service of Notice :)
Shri Arvind V. Bandiwadekar, Advocate)
Having office at 9, "Ram-Kripa",)
Lt. Dilip Gupte Marg, Mahim,)
Mumbai 400 016 .)

...Applicant

Versus

1. The Deputy Director of School)
Education, Nashik Region, Nashik,)
Having Office at Nashik.)
2. The Joint Director of School)
Education, (M.S.), Pune,)
Having Office at Pune.)
3. The Commissioner,)
School Education, (M.S.) Pune)
4. The State of Maharashtra,)
Through Principal Secretary,)
School Education Department,)
Having Office at Mantralaya,)
Mumbai – 400 032.)

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| 5. | The Chief Executive Officer,
Zilla Parishad, Nashik. |)
) | |
| 6. | The Accountant General,
(M.S.), Mumbai, Having Office at
Pratishtha Bhavan, 101, M.K. Marg,
Churchgate, Mumbai – 20. |)
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) | |
| 7. | The Education Officer (Primary),
Zilla Parishad, Nashik. |)
) | |
| 8. | The Deputy Director of School Education
(Mumbai) Division, Having Office at
Jawarlal Balbhawan, Charni Road,
Mumbai – 4. |)
)
)
) | |
| 9. | The Chief Executive Officer,
Zilla Parishad, Wardha. |)
) | ...Respondents |

Shri Arvind V. Bandiwadekar, learned Advocate for Applicant.

Shri A. J. Chougule, Presenting Officer for Respondents.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 30.09.2021

J U D G M E N T

1. Heard Shri A. V. Bandiwadekar, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.

2. The Applicant is at present 69 years old and has filed present O.A. for direction to release retiral benefits which have been withheld for a long time i.e. from 30.06.2009 on which she stands retired as Education Officer (Secondary) (Class-I), Zilla Parishad, Nashik. The Applicant joined as Assistant Teacher on 01.07.1969 and during the long span of service of four decades, she was promoted and served at various places. Ultimately, she stands retired on 30.06.2009 as

Education Officer (Secondary) from the establishment of Respondent No.5 –Chief Executive Officer, Zilla Parishad, Nashik.

3. This M.A. is filed for condonation of delay along with O.A. for direction to release retiral benefits. Perusal of record reveals that even before the retirement, the applicant has made various representations addressed to various authorities for completion of service book so that on completion of service book she would get her retiral benefits without further delay. Even after retirement, she has made various representations to the Respondents pointing out that negligence on the part of respondents for not updating service book.

4. Ultimately, she approached the office of Lokayukta by filing complaint which was allowed by issuing following directions:

- (1) The fresh LPC (Last Pay Certificate) of the complainant shall be sent by Education Officer (Primary), Zilla Parishad, Wardha to the Education Officer (Primary), Zilla Parishad, Nashik.*
- (2) The Education Officer (Primary), Zilla Parishad, Nashik shall pay the arrears of pay of the complainant on the basis of the said LPC.*
- (3) The Education Officer (Primary), Zilla Parishad, Nashik shall thereafter fix the pension in accordance with the last pay drawn by the complainant, even if the service book of the complainant is not traceable in either of the officers.*
- (4) It is made clear that the pension shall not be held up for want of service book because the service book is to be maintained by the Department and not by the employee. The Education Officer shall decide the pension by presuming that there was nothing against the complainant in service book which may adversely affect pension.*
- (5) Report shall be submitted within three months.*

5. Despite aforesaid directions, no further steps were taken except making correspondence in between respondents and ultimately the Applicant was deprived from getting her legitimate retiral benefits. It is on this background, having no other options, the Applicant has filed present O.A. along with M.A. for condonation of delay.

6. As such, it is explicit from the record that despite various representations and recommendations from the office of Lokayukta no further steps were taken for grant of retiral benefits which exhibits total negligence and casual approach of the Respondents.

7. When the matter was taken up for admission on previous date, learned P.O. has submitted that the Applicant was absent in two phases i.e. 10.03.1988 to 21.10.1988 and again from 13.05.1996 to 06.02.2001. Therefore, directions were given to learned P.O. to take necessary instructions about absence period and the decision of the Government in that behalf. Today, learned P.O. has tendered the order of Government dated 23.06.2021 which shows that the unauthorized absence of the Applicant from 10.03.1988 to 21.10.1988 (226 days) and second phase from 13.05.1996 to 06.02.2001 (1730 days) has been treated as extra ordinary leave. Thus, apparently unauthorized absence period has been regularized as extra ordinary leave. This being the position, the Respondent No.3- the Commissioner, School Education, Pune and Respondent No.4-Government are under obligation to pass further orders about entitlement of the Applicant to the retiral benefits or any other order as deems fit in accordance to law. Regretfully, no further order is passed till date which discloses very sorry state of affair and laxity on the part of Respondent No.4 since it caused serious prejudice to the Applicant since she is deprived of pension.

8. Learned P.O. on instructions submits that still service book of the Applicant is not updated because of her service at various places and that was the reason for not passing suitable orders about retiral benefits of the Applicant.

9. Needless to mention that pension and gratuity are not bounty and it is earned by a Government servant by his continuous service on completion of qualifying services. As such, it is recurring cause of action since the Applicant is deprived of getting retiral benefits from 2009. Despite her various representations and recommendations made by the office of Lokayukta nothing was communicated to the Applicant one way or other. There is a continuous recurring cause of action, therefore, delay in filing O.A. deserves to be condoned.

10. Since the Respondent No.4 has already treated absence period as extra ordinary leave, now it is for the Respondent No.3 and 4 to take further steps for releasing retiral benefits of the Applicant as per her entitlement in rules.

11. Misc. Application and Original Application are, therefore, deserve to be disposed of with suitable directions since there is nothing to be adjudicated in the matter as of now.

12. In view of the aforesaid discussion, the delay in filing O.A. is condoned.

13. Respondent No.3- the Commissioner, School Education, (M.S.), Pune and Respondent No.4- Principal Secretary, School Education Department, Mumbai are jointly and severely directed to take all necessary steps for updating service book of the Applicant and shall pass further appropriate order about her entitlement to pension and if she found entitled to pension, the same be released in accordance to rules within four months from today.

14. Respondent Nos.3 and 4 are further directed to communicate the decision to the Applicant within two weeks thereafter so that she can avail further legal remedy, if necessary.

15. Original Applicant and Misc. Application are accordingly disposed of with no order as to costs.

Sd/-
(A.P. KURHEKAR)
MEMBER-J

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