

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 355 OF 2021

DISTRICT : THANE

Mrs Supriya S. Bhoir)
Clerk, Election Branch,)
Tehsil Office, Dist-Thane.)
R/o: A-3/1, Shri Anupam Nagar CHS Ltd)
No. 16, Near Ganesh Mandir Murbad Road,)
Kalyan [W].)...**Applicant**

Versus

Collector, Thane.)
District-Thane.)...**Respondents**

Shri M.D Lonkar, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : **Justice Mridula R. Bhatkar (Chairperson)**
Shri P.N Dixit (Vice-Chairman) (A)

DATE : **27.07.2021**

PER : **Shri P.N Dixit (Vice-Chairman) (A)**

J U D G M E N T

1. Heard Shri M.D Lonkar, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents

2. The applicant was working as Clerk in the Tahsil Office, District-Thane. The applicant on completion of 33 years of service submitted application for voluntary retirement w.e.f 30.11.2017. The same was however, rejected by the Respondent on 8.12.2017 and communicated to the applicant on 16.3.2021. Learned P.O states that the rejection order was sent to the applicant by R.P.A.D. However, the applicant did not accept the same. The Respondent had produced copy of the rejection order dated 8.12.2017 at page 55. The reason given for rejection of the voluntary retirement is that “No dues Certificate in respect of the applicant regarding the payments due” and “no departmental enquiry is pending” is not available.

3. Learned counsel for the applicant mentions that the applicant had applied for voluntary retirement in view of the medical conditions including high blood pressure, heart ailments and diabetes. However, no documents supporting the medical condition is produced by the applicant. According to the learned counsel for the applicant, she has completed 32 years, 8 months and 4 days of service. The Respondent are however disputing the same.

4. The relevant rule regarding Voluntary Retirement is Rule 66 of the Maharashtra Civil Services (Pension) Rules, 1982. The same reads as under:-

“66. Retirement of completion of years qualifying service.

- (1) At any time after a Government servant completed twenty years qualifying service, he may, by giving notice of three months in writing to the appointing authority, retire from service.
- (2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority:

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of the said period.

¹[(3)]

- (4) (a) ²[A Government servant referred to in sub-rule (1) may make a] request in writing to the appointing authority to accept notice of voluntary retirement of less than three months giving reasons therefor;
- (b) On receipt of a request under clause (a), the appointing authority subject to the provisions of sub-rule (2), may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appointing authority, ⁴[.....], may relax the requirement of notice of three months on the condition that the Government servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.

- (5) A Government servant, who has elected to retire under this rule and has given the necessary notice to that effect to the appointing authority, shall be precluded from withdrawing his notice except with the specific approval of such authority:

Provided that the request for withdrawal shall be made before the intended date of his retirement.

- (6) The pension and ³[retirement gratuity] of the Government servant retiring under this rule shall be based on the pay as defined under rules 60 and 61 and the increase not exceeding five years in his qualifying service shall not entitle him to any notional fixation of pay for purpose of calculating pension and gratuity.....”

5. Perusal of the same reveals that the appointing authority is required to communicate their decision on receipt of the representation for voluntary retirement within less than 3 months along with reasons, if any, for making the same.

6. The applicant had submitted the representation on 30.8.2017 and the Respondent rejected the same on 8.12.2017. It is clear from the above that the decision has not been taken within a period of three months as per the rules. Moreover, the non-availability of “No Dues Certificate, no Departmental Enquiry is pending” has been mentioned as the reason for rejection of applicant’s representation. No Dues Certificate is required to be given by the Respondent where the applicant was working. The non-availability of No Dues Certificate or D.E against the applicant is to be examined by the Respondent from the record available at their end and the applicant cannot be made to suffer for the same.

7. We find that the rejection is claimed to be communicated after the stipulated period of 3 months and the reasons mentioned are not satisfactory. During hearing, we inquired with the Respondent whether any dues or D.E is pending. They did not disclose any departmental enquiry or dues pending from the applicant. As such, we find no reason to reject the prayer made by the applicant.

8. For the reasons mentioned above, the prayer made by the applicant in Prayer clause 10(b), namely, the applicant may be allowed to retire voluntarily from 30.11.2017 is allowed.

9. The learned P.O on instructions from Shri Sachin Deshmukh, Clerk in the office of the Tahsildar, Thane, informs that the Respondent will be requiring 3 months for completing the formalities in cooperation with the applicant for completing the missing record and finalizing the retirement benefits.

10. We, therefore, direct the competent authority/Respondent to complete the formalities expeditiously and the applicant is also directed to cooperate in completing all the formalities on day to day basis. The said exercise should be completed within a period of 3 months from today.

11. According, Original Application stands disposed of with no order as to costs.

Sd/-
(P.N Dixit)
Vice-Chairman (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 27.07.2021
Dictation taken by : A.K. Nair.