

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1152 of 2022 (S.B.)

Sanjay Vitthalrao Navgire,
Age- 58 yrs, Occ. Retired,
R/o. Behind Mahatma Fule College,
Parvati Nagar No. 2, Akoli Road,
Amravati, Tq. & Dist. Amravati.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary,
Department of Animal Husbandry and Dairy,
Mantralaya, Mumbai.
- 2) Regional Dairy Development Officer of Regional Dairy
Development Office, Congress Nagar, Amravati,
Tq. & Dist. Amravati.
- 3) Government Milk Scheme,
through its Dairy Manager,
Office at Congress Nagar, Amravati,
Tq. & Dist. Amravati.
- 4) Accountant General (A & E)-II,
Maharashtra, office at Civil Lines,
Nagpur, Tq. & Dist. Nagpur.

Respondents.

Shri P.S. Patil, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 28/07/2023.

J U D G M E N T

Heard Shri P.S. Patil, learned counsel for the applicant
and Shri S.A. Sainis, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was appointed on the post of Refrigeration Operator as per order dated 24/08/1984. He was not appointed from the reserved category. The applicant has completed 34 years service. After completion of 34 years service, he is retired on 31/03/2022. The respondents have paid pension, but thereafter issued notice dated 02/09/2022 (P-24) directing the applicant to refund the amount of pension, amount of gratuity, leave encashment etc. Hence, the applicant approached to this Tribunal for the following reliefs –

“(IX) INTERIM RELIEF:-

- 1. By way of interim relief grant stay to the effect and operation to the impugned communication dated 02.09.2022 issued by respondent no. 3, Dairy Manager, Amravati during the pendency of petition in the interest of justice.*
- 2. Direct the respondents to continue the provisional pension to the petitioner during the pendency of application before this Hon’ble Court in the interest of justice.*
- 3. Grant any other relief which deem fit and suitable in the fact and circumstances of the case in favour of applicant and against the respondents.*

(X) RELIEF SOUGHT :-

- (i) Hold and declare that applicant is entitled for all pensionary benefits for the service rendered by him as a Refrigeration Operator from period 24.08.1984 to 31.03.2022 in the respondent Department in the interest of justice.*

(ii) Hold and declare that respondents are not entitled to recover the pensionary benefits paid to the petitioner towards G.P.F., D.C.R.G. and leave encashment on the ground that applicant failed to produce the Caste Validity Certificate in the interest of justice.

iii) Hold and declare that applicant is entitled for all pensionary benefits and regular monthly pension for the service he has rendered in the respondent Department as per the provisions of Maharashtra Civil Services (Pension) Rules in the interest of justice.

iv) Grant any other relief which this Hon'ble Court deems fit and proper in favour of present applicant in the facts and circumstances of the matter and in the interest of justice."

3. The O.A. is opposed by the respondents. It is submitted that the applicant belongs to S.C. category, but he has not produced the Caste Validity Certificate, therefore, the applicant is not entitled for the pension and pensionary benefits. Hence, the O.A. is liable to be dismissed. The amount as stated in the notice dated 02/09/2022 is to be recovered from the applicant.

4. As per the submission of learned counsel for applicant Shri P.S. Patil, the applicant has completed 34 years service. The applicant is retired on 31/03/2022 after completion of age of superannuation.

5. The respondents have issued notice to the applicant on 16/01/2019 to produce the Caste Validity Certificate. Even thereafter the respondents have paid the amount of pension and pensionary benefits.

6. There is no dispute that the applicant was continued in service till the date of superannuation. From the perusal of appointment order dated 24/08/1984 it is nowhere mentioned that the applicant was appointed in the reserved category. The appointment order is very clear, therefore, there is a substance in the submission of applicant that he was appointed in the Open category. The respondents have not taken any action for not producing the Caste Validity Certificate till the date of retirement. This itself shows that the applicant was appointed from the Open category, therefore, the respondents have not taken any action. The respondents have paid all the pension and pensionary benefits. Now the respondents have issued notice dated 02/09/2022 directing the applicant to refund the amount of GPF, DCRG, leave encashment etc., because, he has not produced the Caste Validity Certificate. The respondents have allowed the applicant to continue the service for about 34 years. Till the date of retirement no any action is taken. The respondents have paid the amount of pension and pensionary benefits. Now the

respondents cannot claim that that amount was wrongly paid and it is to be recovered. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) It is held that the applicant is entitled for all pension and pensionary benefits. The respondents cannot recover the amount of pension and pensionary benefits which was already paid to the applicant. Hence, notice dated 02/09/2022 is hereby quashed and set aside.

(iii) No order as to costs.

Dated :- 28/07/2023.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 28/07/2023.