

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1214 of 2022 (S.B.)

Pramod S/o Wamanrao Kukade,
aged about 59 years,
Occ. Retired Agriculture Officer,
r/o Rathinagar, Near Computer Circle,
Amravati 444 603.

Applicant.

Versus

1. The State of Maharashtra,
through its Secretary,
Department of Agriculture, Animal Husbandry,
Dairy Science & Fishery,
Mantralaya, Mumbai- 400 032.
2. The Commissioner for Agriculture,
Government of Maharashtra,
Central Building, 3rd Floor, Pune - 411 001.
3. The Joint Director for Agriculture,
Government of Maharashtra,
Agriculture Complex, Tapowan Road,
Amravati 444 601.
4. The Analytical Chemist,
Chemical Fertilizer Testing Laboratory,
Agriculture Complex, Tapowan Road,
Amravati 444 601.

Respondents.

S/Shri V.G. Bhamburkar, M.S. Patil, Advocates for the applicant.

Shri A.P. Potnis, learned P.O. for respondents.

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

Dated :- 15/03/2023.

JUDGMENT

Heard Shri V.G. Bhamburkar, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for the respondents.

2. The matter is decided finally with the consent of learned counsel for both the parties.

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

The applicant has joined his service as Agricultural Assistant in the office of Sub Divisional Soil Conservation Office, Manoli Project, Mangrulpir, District Washim on 22/05/1986. The applicant is retired on 30/06/2021. The applicant is entitled for the increment which falls due on 01/07/2021, but it was not granted by the respondents. Hence, he approached to this Tribunal for direction to the respondents to grant increment which falls due on 01/07/2021.

4. Heard Shri A.P. Potnis, learned P.O. for the respondents. The O.A. is strongly opposed by the respondents. It is submitted that the applicant is retired on 30/06/2021 and therefore he is not entitled for increment which falls due on 01/07/2021. As per the submission of learned P.O., the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.5864/2019 is stayed by the Hon'ble Supreme Court and therefore increment cannot be granted to the applicant which falls due on 1st July, 2021. Hence, the O.A, is liable to be dismissed.

5. Heard Shri V.G. Bhamburkar, learned counsel for the applicant. He has submitted that this matter is covered by various Judgments of the Hon'ble Bombay High Court and hence prayed to decide the same. He has pointed out the Judgment of the Hon'ble Madras High Court in Writ Petition No.15732 of 2017 in Case of ***P. Ayyamperumal vs. The Registrar, Central Administrative Tribunal and others*** and also pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.1881/2023 with connected Writ Petitions in which the Hon'ble Bombay High Court has relied on the Judgment of Division Bench of the Hon'ble Madras High Court in Writ Petition No.15732 of 2017 in Case of ***P. Ayyamperumal vs. The Registrar, Central Administrative Tribunal and others***, and recorded its findings that employee who retired on 30th June is entitled for increment which falls due on 1st July. The Judgment of Division Bench of the Hon'ble Madras High Court in Writ Petition No.15732 of 2017 in Case of ***P. Ayyamperumal vs. The Registrar, Central Administrative Tribunal and others*** was challenged before the Hon'ble Supreme Court in SLP. The SLP was dismissed by the Hon'ble Supreme Court.

6. The learned counsel for the applicant Shri V.G. Bhamburkar has also pointed out the Judgment passed by M.A.T., Bench at Aurangabad in O.A.No.500/2022 with connected matters on

23/11/2022. The M.A.T., Bench at Aurangabad has passed the following order –

“(i) All these Original Applications stand allowed.

(ii) Subject to the outcome of SLP (Civil) No.4722/2021 pending before the Hon’ble Supreme Court, the applicants are held entitled for increment due on 1st July of the concerned year of their retirement. It shall be reckoned for the purpose of pension and gratuity and other retiral benefits subject to rider that the applicants would be entitled to arrears of monetary benefits for the period of three years only preceding the date of filing Original Applications.

(iii) By obtaining the necessary undertaking from the applicants for refund of the amount, which may be paid to them in view of the present order in case the Hon’ble Supreme Court in the aforesaid matters rules that no such increment was payable, the respondents are directed to make payment of arrears accordingly within three months from today and also to ensure that revised pension is paid accordingly.

(iv) No order as to costs. ”

7. In view of above submission, the following order is passed –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to grant increment which falls due on 01/07/2021 to the applicant with all consequential benefits.

(ii) Subject to the outcome of SLP (Civil) No.4722/2021 pending before the Hon'ble Supreme Court, the applicants are held entitled for increment due on 1st July of the concerned year of their retirement. It shall be reckoned for the purpose of pension and gratuity and other retiral benefits subject to rider that the applicants would be entitled to arrears of monetary benefits for the period of three years only preceding the date of filing Original Applications.

(iii) By obtaining the necessary undertaking from the applicants for refund of the amount, which may be paid to them in view of the present order in case the Hon'ble Supreme Court in the aforesaid matters rules that no such increment was payable, the respondents are directed to make payment of arrears accordingly within three months from the date of receipt of this order and also to ensure that revised pension is paid accordingly.

(iv) No order as to costs.

Dated :- 15/03/2023.

(Justice M.G. Giratkar)
Vice Chairman.

*dnk.

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 : 15/03/2023.*