

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 734 of 2021 (S.B.)

Ramu S/o Shrawan Parate,
Aged about 59 years,
Occupation : Retired,
R/o Plot No.116-A, Lokmanya Nagar,
Hingna Road, Nagpur-440 016.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Home Department, Mantralaya,
Mumbai-400 032.
- 2) Director General of Police,
Shahid Bhagatsingh Marg,
Colaba, Mumbai-400 001.
- 3) Special Inspector General of Police,
Anti Naxalite Operation,
Suraburdi, Waddhamna,
Amravati Road, Nagpur.

Respondents.

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

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

Dated :- 21/12/2022.

JUDGMENT

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

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

The applicant was initially appointed on the post of Junior Clerk in Open category as per order dated 27/06/1991. The applicant came to be retired on superannuation on 31/12/2019. The respondents have not granted the regular pension and pensionary benefits on the ground that the proposal to create a supernumerary post is under consideration of the State Government and therefore the applicant approached to this Tribunal for following reliefs -

“(i) to quash and set aside the order / communication dated 11/06/2021 stoppage and withhold regular pension and pensionary benefits by the respondents.

(ii) to direct the respondents to release the regular pension and pensionary benefits at the earliest alongwith interest 12% per annum till it's realization or received by the applicant.

(iii) to direct the respondents to pay, release the Gratuity (DCRG) and leave encashment with interest.”

3. The respondent no.3 has filed reply. It is submitted by the respondents that the applicant belongs to Koshti caste. The applicant not submitted Caste Validity Certificate and therefore supernumerary post is to be created and hence the applicant is not entitled for the retiral benefits, because, supernumerary post is only for a particular period and no any pensionary benefits can be granted who worked on a supernumerary post.

4. This Tribunal relying on the Judgments of Hon'ble Bombay High Court, Bench at Nagpur Bench in Writ Petition No.462/2020 and Writ Petition No.547/2021, allowed the similar matters.

5. From the perusal of appointment order dated 27/06/1991, it is clear that the applicant was not appointed in reserved category, there was no necessity for him to produce Caste Validity Certificate. He was appointed in Open category. The respondents have continued the service of the applicant till his retirement. After retirement, the respondents have issued some letters stating that the proposal to create a supernumerary post is under consideration. Till date nothing is filed on record to show that the applicant is / was placed on a supernumerary post.

6. The learned counsel for the applicant has placed on record the letter / information dated 06/07/2022 supplied by the Information Officer, Government of Maharashtra, Mantralaya, Mumbai. As per this letter / communication no any supernumerary post is / was created for the applicant.

7. From the perusal of this letter / information dated 06/07/2022, it is clear that no any supernumerary post is created for the applicant. The applicant is already retired in the year 2019, therefore, the respondents ought to have granted him pension and

other pensionary benefits. The Hon'ble Bombay High Court, Bench at Nagpur Bench in similar Writ Petition No.462/2020 and Writ Petition No.547/2021 has held that when no any supernumerary post was created and there is nothing in the appointment order to show that he was appointed in reserved category, then pension and pensionary benefits cannot be withheld. In view of the Judgments of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.462/2020 and Writ Petition No.547/2021, the applicant is entitled for pension and other pensionary benefits. Hence, the following order—

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to release regular pension and other pensionary benefits to the applicant within a period of three months from the date of receipt of this order.
- (iii) No order as to costs.

Dated :- 21/12/2022.

(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 : 21/12/2022.