

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1161 of 2021 (S.B.)

Waman S/o Raghunath Kashikar,
aged 59 years, Occ. Retired,
R/o Basera Colony, Near H.P. Gas Godown, Malkapur,
Tq. & Dist. Akola.

Applicant...

-- Versus --

- 1) The State of Maharashtra,
Through its Principal Secretary,
Social Welfare Department,
Mantralaya, Mumbai-32.
- 2) The Commissioner Social Welfare,
having its office 3, Church Road,
Maharashtra State, Pune-411001.
- 3) The Regional Deputy Commissioner,
Social Welfare Division,
Office at Samajik Nyay Bhavan,
Near Police Head Quarter, Amravati, Dist. Amravati.
- 4) The Assistant Commissioner Social Welfare,
having its office Administrative Building, 2nd floor,
Collectorate Building, Akola.

Respondents.

Shri S.P. Palshikar, Advocate for the applicant.

Shri A.M. Khadatkhar, learned P.O. for respondents.

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

Dated :- 01/08/2023.

JUDGMENT

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri A.M. Khadatkhar, learned P.O. for the respondents.

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

The applicant was appointed as a Senior Care Taker and was posted at Amravati on 22/03/1982. The applicant was promoted as a Junior Clerk in the year 1992. In the year 2012, he was further promoted as a Senior Clerk. Thereafter, he was promoted as a Social Welfare Inspector as per the order dated 04/11/2018.

3. The applicant is retired on attaining the age of superannuation on 30/11/2020. The applicant is not getting any pension and pensionary benefits. Therefore, the applicant approached to this Tribunal for the following reliefs –

“(8) That this Hon'ble Tribunal be pleased to call for the entire record from the office of respondent No.2 regarding the alleged issuance of charge sheet and inquiry and after perusal of the same further be pleased to :-

(i) quash and set aside the portion in communication dated 25/11/2020 "त्यांचेकडे एएनएम / जीएनएम या नर्सिंग अभ्यासक्रमास सन २००९-१० व २०१०-११ या कालावधीतज नियमबाह्य शिष्यवृत्तीचे वितरण केल्याने त्यांचे विरुद्ध विभागीय चौकशी सुरु आहे, सदर विभागीय चौकशीच्या निर्णयाच्या तसेच त्यांचेकडून भविष्यात शासकीय वसुली येणे / बाकी निघाल्यास ती त्यांना देय असलेल्या सेवानिवृत्ती लाभाच्या रकमेतून वसुल करण्याचा अटीच्या अधिन राहून” as illegal bad in law ;

(ii) further be pleased to hold and declare that the period of suspension from 16/07/2014 to 13/07/2015 be treated as a duty period for all purpose and release the benefits of the same forthwith ;

iii) further be pleased to direct the respondents to release all the retiral benefits including that of pension except G.P.F. and G.I.S. in favour of the applicant forthwith ;

iv) grant any other relief which deemed fit including that of the costs in the facts and circumstances of the present case.”

4. The O.A. is opposed by the respondents. It is submitted that because of the inquiry pending against the applicant, he is not entitled to get any pension and pensionary benefits.

5. Heard Shri S.P. Palshikar, learned counsel for the applicant. He has pointed out the Judgment of this Tribunal in O.A.No.318/2022 in respect of the applicant. By the said Judgment, the charge sheet dated 08/03/2022 which was issued by the respondents against the applicant was quashed and set aside. As per submission of learned counsel for applicant, now there is no departmental inquiry pending against the applicant, therefore, the applicant is entitled for the pension and pensionary benefits.

6. Heard Shri A.M. Khadatkhar, learned P.O. for the respondents. He has submitted that the applicant has committed misconduct, therefore, he is not entitled for pension and pensionary benefits.

7. The impugned order dated 25/11/2020 shows that the incident is of the year of 2009-2010. The applicant is retired on 30/11/2020. The impugned communication is dated 25/11/2020 and the charge sheet was issued against the applicant on 08/03/2022. That charge sheet was quashed and set aside by this Tribunal on the ground that as per the Rule 27 (2) (B) of the Maharashtra Civil Services (Pension) Rules, 1982, initiating the departmental inquiry in

respect of incident which was occurred four years prior to the retirement is not legal and proper and therefore this Tribunal has allowed the O.A.No.318/2022 and quashed and set aside the charge sheet dated 08/03/2022. Now there is no inquiry pending against the applicant. Hence, the communication dated 25/11/2020 is liable to be quashed and set aside. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The communication dated 25/11/2020 is hereby quashed and set aside. The respondents are directed to treat the suspension period of the applicant from 16/07/2014 to 13/07/2015 as a duty period and pay the salary of the said period.
- (iii) The respondents are directed to pay pension and pensionary benefits to the applicant.
- (iv) The respondents are directed to comply the order within a period of three months from the date of receipt of this order.
- (v) No order as to costs.

Dated :- 01/08/2023.

(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 : 01/08/2023.