

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 142 of 2017 (S.B.)

Vithal S/o Krishna Dubule,
Aged about 60 years, Occ. Service,
R/o 170 H.B. Estate, Sonegaon,
Nagpur-440 025.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Higher & Technical Education,
Maharashtra State, having its office at Mantralaya,
Mumbai-400 032.
- 2) Director of Higher Education,
State of Maharashtra, Central Building,
Pune.
- 3) The Joint Director, Higher Education,
State of Maharashtra, Nagpur Division,
Nagpur.
- 4) Director,
Vasantrao Naik Government Institute of Arts & Social
Sciences, RBI Square, Civil Lines, Nagpur.

Respondents.

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

Shri S.A. Sainis, P.O. for the respondents.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Dated :- 12/02/2020

JUDGMENT

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

2. The facts are that the applicant was serving as Assistant Professor on the establishment of Vasantao Naik Government Institute of Arts and Social Sciences, Nagpur. The Government of Maharashtra issued the G.R. dated 5/3/2011 to extend the retirement age of the Lecturers in various academic Institutions upto attaining age of 62 years. As benefits of the G.R. was not given to the applicant, the applicant approached the Maharashtra Administration Tribunal, in O.A. 329/2015, decided on 28/8/2015 the direction was given to consider the representation of the applicant as to his C.Rs. and consider him for giving benefit of the G.R. dated 5/3/2011 subject to upgradation of his C.R.

3. There is no dispute that as per the order passed in O.A.329/2015, the C.R. of the applicant came to be upgraded and as per the order dated 4/11/2015 extension was granted to the applicant as per the G.R. dated 5/3/2011 w.e.f. 1/7/2015 to 30/6/2017. In pursuance of this order, the applicant resumed the duty on 5/11/2015. It is grievance of the applicant that he is entitled to receive the salary for the period from 1/7/2015 to 4/11/2015 as he was wrongfully restrained from joining duty during this period.

4. It is contention of the respondents that as the applicant did not perform the duty during period from 1/7/2015 to 4/11/2015, therefore, the applicant is not entitled for the salary on the principle 'no work no pay'.

5. There is no dispute about the facts that as benefit of the G.R. dated 5/3/2011 was not given to the applicant, consequently, the applicant stood retired from the service after attaining the age of superannuation (60 years). Now the Government has corrected its decision and extended the services of the applicant from 1/7/2015 to 30/6/2017. The learned P.O. admitted that the period from 1/7/2015 to 4/11/2015 pension is not paid to the applicant.

6. In view of this matter, I would like to point out that the Government is not permitted to blow hot and cold. It is not disputed that the pension for the period from 1/7/2015 to 4/11/2015 is not paid, because, the applicant did perform duty. As per the later order extension is granted to the applicant from 1/7/2015 to 4/11/2015, therefore, grave injustice would cause to the applicant if salary is not paid to him. In this regard I would like to point out that as per the decision of the Government extension was granted to the applicant from 1/7/2015 to 30/6/2017, therefore, it cannot be said that the applicant stood retired after attaining age of 60 years and if salary and

pension for that period is not paid to the applicant, then it will be serious injustice to the applicant.

7. In view of this, the O.A. is required to be allowed. The respondents are directed to pay the salary from 1/7/2015 to 4/11/2015 to the applicant within a period of three months from the date of this order. The communication dated 13/2/2017 is hereby quashed. No order as to costs.

Dated :- 12/02/2020.

(A.D. Karanjkar)
Member (J).

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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 Member (J).

Judgment signed on : 12/02/2020.

Uploaded on : 17/02/2020.