

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH AT NAGPUR

ORIGINAL APPLICATION NO.213/2016.

Dr. (Mrs.) Reeta Harode,
Aged about 62 years,
Occ-Retired,
R/o 200-A, Cement Road,
Shivaji Nagar, Nagpur.

Applicant

-Versus-

1. State of Maharashtra,
Through its Secretary,
Department of Higher & Technical Education,
Mantralaya, Mumbai-400 032.
2. The Director of Higher Education,,
(M.S.), Pune.
3. The Director,
Vasantrao Govt. Institute of Arts & Social Sciences,
RBI Square, Pt. Jawaharlal Nehru Marg,
Nagpur.

Respondents.

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

Shri A.M. Ghogre, P.O. for the respondents.

CORAM: S.S. Hingne, Member (J)

Date:- 6th October, 2016.

Oral order

With the consent of learned counsel for the parties,
matter is heard and decided at the admission stage.

2. The applicant has filed this O.A. challenging the recovery vide order dated 14.3.2016 (A.1, P.22) and 16.3.2016 (A.2, P.23) and sought to finalize her pension case with interest.

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

4. Following factual aspects are no longer in dispute. The applicant's date of birth is 13.10.1953. She was to retire in October 2013 on attaining the age of 60 years. In the meantime, the applicant filed O.A. No. 324/2014 seeking extension of retirement age upto 62 years on the basis of G.R. dated 25.2.2011. The applicant continued in service on the basis of orders of the Court. O.A. came to be dismissed on 27.8.2014 thereby applicant's services came to an end. The W.P. No.5123/2014 challenging the same is dismissed on 29.10.2015.

5. Thus, the applicant worked from October 2013 to 27.8.2014 on the basis of orders issued by the Court. By the impugned orders, recovery of salary paid after 31.10.2013 i.e. after due date of superannuation is ordered. Since the applicant worked on the post, the applicant can get salary for that period. Not only that but the applicant was continued in service on the basis of interim orders passed by the Court. In this state of affairs, she cannot be deprived of the payment of work done. Lastly, the learned counsel for the applicant has relied on the case **State of Punjab and others V/s Rafiq Messiah, Civil Appeal No.11527/2014 (arising out of SLP (C))**

No.11684/2012), wherein Their Lordships of the Apex Court of the land held that the recovery of amount should not be made in particular matters like retiral employees mentioned in clause 12 (ii) of the judgment and applicant's case is covered therein. In this view of the matter, recovery cannot be made and the O.A. deserves to be allowed.

6. The applicant also claimed finalization of pension case. Since much time is lapsed, it is necessary that the case should be finalized at the earliest considering her tenure till 31.10.2013 i.e. till the date of regular retirement. The authority can consider the aspect of interest.

7. Consequently, the O.A. is disposed of in the following terms:

- (i) O.A. is allowed.
- (ii) Communications dated 14.3.2016 and 16.3.2016 are quashed.
- (iii) The respondents to finalize the pension case of the applicant within 3 months.
- (iv) The respondents to consider the aspect regarding interest, according to law.
- (v) No order as to costs.

(S.S.Hingne)
Member (J)