

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.304/2016.

Arvind Bhagwantrao Wadaskar,
Aged about 61 years,
Occ-Retired employee,
R/o 122, Samta Colony, Near Rangoli Lawns,
Kathora Naka Road, Amravati.

Applicant

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Water Supply & Sanitation,
Mantralaya, Mumbai-440 032.
- 2) The Director,
Groundwater Survey and Development Agency,
P.M.T. Building, Swargate, Pune-37.

Respondents

Shri S.M. Khan, Ld. Counsel for the applicant.
Shri A.P. Potnis, learned P.O. for the respondents.

Coram:- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).

JUDGMENT

(Delivered on this 12th day of April 2017.)

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

2. The applicant was initially appointed as Junior Geologist on daily wages on 1.2.1983. Vide order dated 29.12.1984, he was appointed as Junior Geologist, Class-II for a period of six

months and he continued to work as such till 20.10.1987 subject to technical breaks. According to the applicant, the Govt. of Maharashtra has issued a G.R. dated 1.11.1983 for granting continuity of service and thereby condoned the technical breaks prior to June 1983. Vide order dated 23.2.1994, the applicant was appointed on regular basis as Assistant Geologist, Class-II. Vide order dated 15.2.2000, technical breaks were condoned and the applicant came to be promoted as Senior Geologist in the pay scale of Rs. 8,000-275-13,500 on 23.3.2009. He came to be retired on superannuation on 31.1.2013.

3. The applicant filed number of representations and finally issued a notice on 1.12.2015 to the respondents, requesting them to consider his earlier service for the purpose of pension. He requested that his earlier service from 1.2.1983 to 31.1.2013 be counted for all purposes and his pay shall be re-fixed and retiral benefits be given to him alongwith arrears. However, nothing was done by the respondents and, therefore, this O.A.

4. The respondent Nos. 1 and 2 filed rejoinder affidavit. The tenor of the affidavit shows that the applicant's claim is being defended and denied only on the ground that the applicant has not taken any action till retirement. It is stated that the applicant has not taken objection when he was appointed on regular basis, when

technical breaks were condoned and also when he was promoted and the application has been filed after retirement. The applicant filed rejoinder and denied the allegations and submitted that he has filed number of representations and also issued a legal notice. But his claim was not considered.

5. It seems to be an admitted fact that, the technical breaks in the service of the applicant have been condoned and the applicant was promoted on regular basis. At the time of retirement, the applicant was holding a substantial post on regular and permanent basis. In such circumstances, not considering the claim of the applicant or in other words even not responding to the representation filed by the applicant is not proper.

6. The learned counsel for the applicant has placed reliance on the judgment reported in the case of **Rohini Shashikant Oak V/s State of Maharashtra and three others in W.P. No. 5268, 2141, 5532 & 5534 of 2015 delivered on 29.9.2016** by the High court of Judicature at Bombay, Bench at Nagpur and also a judgment in **O.A. No. 885/2014 delivered by the Principal seat of this Tribunal at Mumbai in case of Dr. (Smt.) Snehal Anil Trimbake V/s District Health Officer, Satara and three others decided on 26.8.2016**. In both the judgments, the Hon^{ble} High Court and this Tribunal have

considered various aspects of the case and specially the Rules 30, 49, 57 and 66 (1) of the Maharashtra Civil Services (Pension) Rules, 1982. Pension Rules show that the services rendered by an employee on part time basis should also be considered for computing the qualifying service for granting pension. Merely saying that the applicant has not raised objection for pay fixation is not sufficient. Grant of pension is a continuous cause of action and it is the duty of the respondent authority to consider all rules and regulations while fixing pension and pay scale of the employee. In such circumstances, the respondents cannot ignore various representations of the applicant, though such representations might be filed after retirement. In the present case, the representations were filed for counting condoning of technical breaks even during service period. I am, therefore, satisfied that there is a merit in the contention raised by the applicant. Hence, the following order:-

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondents are directed to consider various representations filed by the applicant as regards counting of his service w.e.f. 1.2.1983 to 31.1.2013 as per rules and if the applicant is entitled to counting of such service period, pay

and pension of the applicant be re-fixed accordingly and also in view of the observations made in the judgment of the Honble High Court and this Tribunal as already referred above.

- (iii) The entire exercise shall be completed within six months from the date of this order.
- (iv) No order as to costs.

(J.D.Kulkarni)
Vice-Chairman(J)

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