

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 39/2016**

Dr. Gunanand Maniramji Pise,  
Aged 59 years, Occupation : Retired,  
r/o 32 Gajanan Nagar, Rameshwari Ring Road,  
Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Public Health Department having its office at  
Mantralaya, Mumbai-400 032.
- 2) Chief Executive Officer,  
Zilla Parishad, Nagpur.
- 3) Director of Health Services,  
Mumbai.

**Respondents**

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

**Shri H.K. Pande, Id. P.O. for the respondent no.1.**

**Shri Nitin Dhoke, Majid Sheikh, Advocates for resp.no.2.**

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

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**JUDGEMENT**

**(Delivered on this 17<sup>th</sup> day of July,2017)**

Heard Shri S.P. Palshikar, Id. counsel for the  
applicant, Shri H.K. Pande, Id. P.O. for respondent no.1&3 and  
Shri M. Sheikh, Id. Counsel for R-2.

The applicant entered in the Govt. service as a Medical Officer in Group-A and was posted as such at Gadchiroli on 13/4/1988. He served at various places and finally got retired on attaining the age of superannuation on 31/1/2015. He has rendered total service of 26 years, 6 months and 24 days.

2. After retirement the applicant requested the respondents to pay his pension and pensionary benefits. On 7/6/2015 the respondent no.2 intimated the applicant that some departmental proceedings were pending against him and that he will get provisional pension only.

3. The applicant made a complaint to Lok Ayukta of Maharashtra on 1/9/2015 and the Lok Ayukta also directed respondent no.2 to take necessary steps. On 21/11/2015 the respondent no.2 informed the Lok Ayukta that departmental enquiry was pending against the applicant. According to the applicant, he is getting provisional only. No charge sheet was served on him and therefore he is entitled to pensionary benefits alongwith interest. The applicant has prayed for a direction to respondents to release all his pensionary and retiral benefits alongwith interest.

4. In the reply-affidavit filed on behalf of respondent no.3, it is stated that a preliminary enquiry was conducted against the applicant in which following charges are contemplated :-

- “ i) The applicant has conducted private practice illegally.*
- ii) The applicant has misbehaved with lady patients.*
- iii) The applicant has very unsatisfactory work in MCTS Software.”*

5. A proposal has been sent to the Directorate of District Health Services, Mumbai for initiating the departmental enquiry against the applicant on 16/9/2016 as per Annex-R-3-2 and vide letter dated 20/1/2017 the Directorate of Health Services, Mumbai has directed the Deputy the Director of Health Services to submit complete proposal. The respondent no.2 filed additional affidavit and submitted that after filing of the reply GIS amount of Rs. 1,73,660/- was paid to him and that the leave encashment proposal was also sent to the Dy. Director of Health Services on 3/10/2016.

6. Perusal of the record clearly shows that the applicant in this case has stood retired on superannuation on 31/1/2015. There is nothing on the record to show that any

charge sheet was served on the applicant before his retirement. There is nothing on the record to show that the respondents have obtained sanction for initiating departmental enquiry against the applicant till today. From the documents placed on alongwith reply affidavit it is proposed that an inquiry under Rule 8 of the MCS (D&A) Rules shall be initiated against the applicant. A letter in this regard is dated 23/1/2017. It is therefore clear that no departmental enquiry was either proposed or initiated against the applicant prior to his retirement. The fact that the applicant was allowed to retire honourably on superannuation itself shows that no inquiry was pending against the applicant. The respondents are stating that the inquiry under Rule 8 of the Maharashtra Civil Services (Discipline & Appeal) Rules is being proposed against the applicant. However no such inquiry can be initiated once the applicant has retired honourably. At the most an inquiry under Rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982 can be initiated against the applicant, however for that purpose the respondent must obtain sanction of the Govt. and the charges shall be grave. Admittedly, no sanction has been obtained by the respondents and alleged charges against the applicant cannot be said to be that much grave so as to

attract the provisions of rule 27 of the MCS (Pension) Rules. It will have also to be seen as to whether the charges alleged to be framed against the applicant are within the scope of Rule 27 of the MCS (Pension) Rules.

7. From the above discussion in foregoing paras, it will be clear that till today no charge sheet has been served on the applicant. If at all the applicant has committed any misconduct, the respondents will be at liberty to take departmental action, if permissible, as per the provisions of Rule 27 of the MCS (Pension) Rules and no case they can invoke the provisions of Rules 8 or 10 of the Maharashtra Civil Services (Discipline & Appeal) Rules. In such circumstances, there is no absolutely justification on the part of respondents to deny retiral benefits to the applicant. Hence, following order :-

### **ORDER**

The application is allowed with no order as to costs. The respondents are directed to release all retiral benefits to the applicant and to pay regular pension to the applicant. The regular pension and retiral benefits as admissible to the applicant shall be paid within three months from the date of this order.

The applicant will be at liberty to file representation claiming interest on the delayed payment of retiral benefits and pension from the date of his retirement, till he actually receives the amount. If such representation is filed, the amount admissible by way of interest shall be paid to the applicant within further period of three months from the date of receipt of such representation.

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

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