

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.444/2016. (S.B.)

Smt. Premlata wd/o Rajendraprasad Pande,
Aged about 70 years,
Occ-Nil,
R/o Bldg. No.10, Room No.430,
Police Line, Takli, Katol Road, Nagpur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Additional Chief Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. The Superintendent of Police,
Chandrapur.
3. The Accountant General (M.S.),
Accounts and Entitlement-II, Nagpur.

Respondents.

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

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

Dated:- 29th September 2017.

Order

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

2. The applicant is a widow of deceased Rajendraprasad Pande, who was serving as Constable in Nagpur City

under the respondents. During his life time, Rajendraprasad Pande was promoted as Police Sub-Inspector (PSI) and while working as such as PSI at Police Station, Tumsar, District Bhandara, a Crime No. 131/1991 came to be registered against him for the offences punishable U/ss 7,12, 13 (1) (3) r/w section 13 (2) of the Prevention of Corruption Act.

3. The applicant's husband was tried before the Special Court, Bhandara and was sentenced to suffer rigorous imprisonment for one year and also imposed a fine. Against the order of conviction, the applicant filed Criminal Appeal No. 299/2000 before the Hon'ble high Court, Bench at Nagpur.

4. During the pendency of the Criminal trial, Rajendraprasad Pande came to be retired on superannuation on 28.2.1999. Initially he got provisional pension.

5. On 7.4.2007, Rajendraprasad Pande left for Nagpur by railway from Chandrapur for getting provisional pension. But since that date, his whereabouts are not known. On 25.6.2007, the applicant's son Sanjay lodged complaint at Railway Police Station, Nagpur regarding missing of Shri Rajendraprasad Pande vide Entry No. 29/2007 of Missing Persons Register. Till today, whereabouts of applicant's husband are not known. Respondent No.2 directed the applicant to remain present in the office for filling up necessary

documents regarding family pension and accordingly the applicant remained present in the office on 28.1.2015. Certain documents were signed in the month of February 2015 also. The respondents are not acting upon the guidelines given in the Circular dated 5.7.1991 in respect of grant of pension to the legal heirs of the persons who are absconding and presumed to be dead U/s 108 of the Indian Evidence Act. The applicant filed number of representations for family pension. But nothing was done and, therefore, this O.A. The applicant has claimed directions to the respondents to release all retiral benefits in respect of Shri Rajendraprasad Pande w.e.f. August 2007 alongwith interest.

6. Respondent No.2 has filed affidavit in reply and admitted almost all facts. It is stated that the applicant's husband preferred Criminal Appeal No. 299/2000 before the High Court of Judicature at Bombay, Bench at Nagpur and the same is still pending and, therefore, benefit of family pension cannot be given. They have asked the applicant to submit a copy of judgment passed by the Honble High Court, if any.

7. The Accountant General, Nagpur is respondent No. 3 in this case and it has also filed reply affidavit stating that it has to act upon the directions and since nothing is received from the competent office, it cannot grant pension on its own.

8. From the facts on record, it is clear that the applicant's husband was convicted by the competent Special Court. But admittedly, he has filed an appeal against the conviction and it was pending. It is an admitted fact that, the applicant's husband was initially granted provisional pension for six months. It is also an admitted fact that, the applicant's husband was allowed to retire on superannuation, even though a criminal case was pending against him. The learned counsel for the applicant submits that the appeal filed by the applicant's husband i.e. Criminal Appeal No. 299/2000 has been decided by the High Court, Nagpur. The applicant has kept on record a copy of the judgment in this regard dated 22.8.2017, which is marked % for the purpose of identification. Perusal of the said order show that the judgment and order of the Special Judge, Bhandara dated 12.10.2000 in Special Case No. 02/1992 is set aside and the appellant No.1 i.e. Rajendraprasad Pande, the husband of the applicant has been acquitted of the offences punishable U/ss 7 and 13 (2) (d) r/w section 13 (2) of the Prevention of Corruption Act, 1989. Fact, therefore, remains that the husband of the applicant is now acquitted from criminal charges and there remains no hurdle in granting regular pension to Shri Rajendraprasad Pande i.e. the husband of the applicant and thereafter family pension to the applicant.

9. In view of the fact that the applicant's husband is absconding since 2007 and has retired on superannuation on 28.2.1999 and still the applicant is not getting any relief in the form of family pension and also considering the fact that the age of the applicant is about 70 years at present, the respondents are required to take immediate steps in releasing the family pension and arrears thereof to the applicant as may be admissible. Hence, the following order:-

ORDER

- (i) The O.A. is allowed.
- (ii) The respondent No.2 is directed to immediately submit regular pension and family pension case in respect of Shri Rajendraprasad Pande to respondent No.3, since Shri Rajendraprasad Pande has been acquitted from the criminal charges.
- (iii) The respondents Nos. 2 and 3 are directed to see that the applicant gets her dues including pension, family pension and arrears thereof of her husband within a period of three months from the date of this order. In case the respondent Nos. 1 to 3 fail to settle the pension claim of the applicant and arrears thereof within stipulated period of six months from today, the applicant will be entitled to claim interest as per the provisions of M.C.S. (Pension) Rules,

1982 from the date of acquittal of the applicant's husband Shri Rajendraprasad Pande till the applicant gets all arrears to which she is entitled.

(iv) No order as to costs.

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

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