

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 666 of 2020 (S.B.)**

Dipak Chandraprakash Thakur,
Aged 38 years, Occu. Retired,
R/o Suraksha Colony,
Inside Tapowan Gate, Amravati.

Applicant.

Versus

- 1) State of Maharashtra,
through the Principal Secretary,
Department of Home, Mantralaya, Mumbai-32.
- 2) Dy. Commissioner of Police (HQ),
Police Head Quarter, Amravati.
- 3) Sr. Accounts Officer,
Indian Audit and Accounts Department,
Pension Wing, Old Building, Post Box No.114,
GPO, Civil Lines, Nagpur.

Respondents.

Shri Rahul Tajne, Advocate for the applicant.

Shri A.P. Potnis, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 21/07/2022.

JUDGMENT

Heard Shri Rahul Tajne, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for the respondents.

2. The applicant was working as a Police Constable with the respondent no.2 from 3/11/2004. He was posted at Police Headquarters at Amravati. The applicant remained absent from the service. The departmental inquiry was initiated against him. On 18/12/2017, the respondents imposed the punishment of compulsory retirement upon the applicant. On 19/12/2017, the respondents passed the order directing that absence period of 1180 days of the applicant from 25/9/2014 to 17/12/2014 would be treated as extra ordinary leave without pay. This extra ordinary leave shall be treated for the benefit of pension and other retiral benefits.

3. It is submitted that the respondent no.3 raised objections to the pension case submitted by respondent no.2. Therefore, the applicant is not getting pension.

4. The learned counsel for the applicant has submitted that as per the impugned communication dated 24/7/2019, the respondent no.3 directed the respondent no.2 to get sanction as per the Rule 4 of the Maharashtra Civil Services (Pension) Rules,1982.

5. The impugned order of compulsory retirement shows that the applicant was unauthorisedly absent. In the departmental inquiry misconduct was proved. The respondent no.2 inflicted the punishment of compulsory retirement as per the order dated 18/12/2017. On the next date 19/12/2017, the respondent no.2 has decided unauthorised leave of 1180 days as extra ordinary leave (without pay). It is also mentioned in the said order that the said extra ordinary leave shall not be taken into count for the purpose of yearly increment, but those extra ordinary leave shall be taken into count for the purpose of pensionary benefits.

6. The learned counsel for applicant pointed out the Rule 35 of the Maharashtra Civil Services (Pension) Rules,1982. As per this rules "all leaves including extra ordinary leave during the period of continuous service, shall count as qualifying service for pension". Once the extra ordinary leave is granted by the disciplinary authority, then there was no necessity to get sanction as per the Rule 4 of the Maharashtra Civil Services (Pension) Rules,1982. The leaves are already sanctioned as extra ordinary leave and as per the Rule 35 of the Maharashtra Civil Services (Pension) Rules,1982, those leave are to be counted for the purpose of pensionary benefits only. Hence, the following order –

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondents are directed to pay the pension / pensionery benefits to the applicant as per the rules within a period of three months from the date of receipt of this order.
- (iii) No order as to costs.

Dated :- 21/07/2022.

(Justice M.G. Giratkar)
Vice Chairman.

*dnk.

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 Vice Chairman.

Judgment signed on : 21/07/2022.

Uploaded on : 22/07/2022.

ok