

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 860 of 2022 (S.B.)

Yadav S/o Narayan Ghodmare,
Aged 59 years, Occ. Retired,
R/o Sarkar Nagar, Near Water Tank,
Chandrapur, Dist. Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Public Works Department,
Madam Kama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai-32.
- 2) The Chief Engineer,
Public Works Department,
Having its office at Civil Lines, Nagpur.

Respondents.

Shri S.P. Palshikar, Advocate for the applicant.
Shri A.P. Potnis, learned P.O. for respondents.

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

Dated :- 13/01/2023.

J U D G M E N T

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

2. The case of the applicant in short is as under –

The applicant was appointed as a Junior Engineer on 22/12/1989. He was posted at Public Works Sub-Division, Sironcha,

District Gadchiroli. The applicant served at various places. The applicant was transferred to Bhadrawati on 13/07/2006. He was trapped for accepting the bribe. The applicant was put under suspension as per order dated 21/09/2010. The suspension order was revoked on 02/05/2013. It was mentioned in the said order that detailed posting order would be issued. On 27/05/2013, the applicant was posted in the Road Project Division, Gadchiroli. On 01/07/2013, the applicant joined on the said post. The departmental inquiry was initiated. On 04/12/2014, the Inquiry Officer submitted its report and come to the conclusion that the only charge levelled against the applicant was proved. On 09/06/2015, Disciplinary Authority has agreed with the Inquiry Officer's report and directed the applicant to submit explanation.

3. On 20/11/2018, the Special Court, Warora acquitted the applicant for want of sanction. The said order was challenged by the respondents before the Hon'ble High Court, Bench at Nagpur. The Hon'ble High Court as per Judgment dated 15/07/2019 discharged the applicant. The applicant is now retired on 31/10/2020. The applicant has only received encashment of leave, GPF and GIS. The applicant has not received the amount of gratuity, commuted pension and regular pension. Therefore, he approached to this Tribunal for the following reliefs –

“ (i) issue directions to the respondents to release gratuity and commutation of pension / regular pension in favour of the applicant within a specific time period,

(ii) further be pleased to regularise the suspension period from 21/09/2010 to 27/05/2013 as a duty period for all the purpose and release all the benefits arising therefrom considering the peculiar facts of the present case within some specific time period. ”

4. Heard Shri S.P. Palshikar, learned counsel for the applicant. He has pointed out the decision of the Hon'ble Supreme Court in Civil Appeal No.4100/2022 in the case of **M.L. Patil (Dead) through L.Rs. Vs. State of Goa and Ano.**, decided on 20/05/2022. The learned counsel for the applicant has submitted that inquiry was conducted before the decision of the Special Court. The Special Court, Warora in Special Case No.02/2011 acquitted the applicant on the ground that there is no sanction to prosecute. The said order was challenged before the Hon'ble Bombay High Court, Bench at Nagpur. The Hon'ble High Court as per the Judgment dated 15/07/2019 discharged the applicant relying on the Judgment of Hon'ble Supreme Court in the case of ***Nanjappa Vs. State of Karnataka, 2015 ALL MR (Cri), 3318.***

5. As per the submission of learned P.O., the charge of accepting bribe is proved in the departmental inquiry and therefore the applicant is not entitled for pensionary benefits.

6. The Hon'ble Supreme Court in the cited Judgment has held that as far as the pension is concerned, it is a continuous cause of action. There is no justification at all for denying the arrears of pension as if they would have been retired / superannuated at the age of 60 years. There is no justification at all by the High Court to deny the pension -----

7. In the present case, the applicant was acquitted by the Special Court, after recording the evidence, for want of sanction to prosecute him. The said order / Judgment was challenged before the Hon'ble High Court. The Hon'ble High Court come to the conclusion that there was no necessity to record the evidence and should have been discharged in view of the Judgment of Hon'ble Supreme Court in the case of ***Nanjappa Vs. State of Karnataka, 2015 ALL MR (Cri), 3318.***

8. In case of discharge, there is no question of recording any evidence. The Hon'ble High Court has discharged the applicant from all the charges levelled against him. Therefore, it cannot be said that there was some evidence against the applicant to accept the bribe. Judgement of the Hon'ble High Court shows that there was no any need to record evidence for want of sanction and applicant should have been discharged instead of acquittal, as per the ***Judgment of***

Hon'ble Supreme Court in the case of Nanjappa Vs. State of Karnataka, 2015 ALL MR (Cri), 3318.

9. In view of Judgment of the Hon'ble High Court Bench at Nagpur it is clear that the applicant was discharged. In case of discharge, there was no necessity to record the evidence. After framing the charge, evidence are to be recorded. Therefore, it appears that it was not a case against the applicant to frame charge and therefore the applicant was discharged. Hence, it is clear that there was no case for want of sanction to frame charge in respect of the offence alleged against him under the Prevention of Corruption Act. Moreover, the retirement order dated 23/10/2020 does not show that the pension of the applicant is stopped because of the inquiry report / punishment. The order only shows that the applicant is retired w.e.f. 31/10/2020. This order does not show that the respondents have withheld the amount of pension.

10. As per the submission of applicant, he is not getting the pension and other benefits. The respondents have only paid encashment of earned leave, GPF and GIS. The applicant has not received any amount of gratuity, commuted pension and regular pension.

11. In view of the Judgement of the High Court in Criminal Application No.218/2019 in Criminal Appeal No.509/2019, it is clear that the applicant was discharged. Once the applicant is discharged, there was no necessity to record any evidence.

12. The learned P.O. has pointed out the sanction order granted by the Government dated 23/06/2022. As per this sanction order, sanction is granted to prosecute the applicant. This order is dated 23/06/2022. Till date no any charge sheet is filed and this fact is not disputed. The applicant is not prosecuted till date. The applicant is already retired. After the Judgment of Hon'ble High Court, Government has passed sanction order dated 23/06/2022, whereas, the crime was of the year 2009. The original charge sheet was filed in the year 2011. The Special Judge, Warora acquitted the applicant on 20/11/2018. The said Judgment was challenged before the Hon'ble Bombay High Court, Bench at Nagpur. The Hon'ble High Court has discharged the applicant as per the Judgment dated 15/07/2019. Thereafter, the sanction order is passed. At present there is no any charge sheet. The respondents cannot withhold the pension and pensionary benefits. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to pay amount of gratuity, amount of commuted pension and regular pension to the applicant.

(iii) The respondents shall regularise the suspension period from 21/09/2010 to 27/05/2013 and release all the consequential benefits.

(iv) No order as to costs.

Dated :- 13/01/2023.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

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 : 13/01/2023.*