

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 977of 2020 (S.B.)

Omprakash S/o Janbaji Patil,
Aged 65 years, Occ. Retired Govt. Servant,
R/o C/o Natthurao Deshmukh Plot No.11,
Vaishnomata Society, Maharana Colony, Abhay Nagar,
Rameshwari Ring Road, Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Works (Roads),
Mantralaya, Mumbai-32.
- 2) The Superintending Engineer,
Public Works Circle, Amravati.
- 3) The Executive Engineer,
Special Project (PWD) Division No.2,
Daryapur, Tah. Daryapur, Dist. Amravati.
- 4) Superintending Engineer, PW Circle,
Yeotmal, Dist. Yeotmal.
- 5) Executive Engineer,
Road Project Division at Yeotmal, Dist. Yeotmal.
- 6) District Treasury Officer at Yeotmal,
Dist. Yeotmal.

Respondents.

Shri V.G. Wankhede, Advocate for the applicant.

Shri S.A. Sainis, P.O. for respondents.

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

Dated :- 02/12/2022.

JUDGMENT

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

2. As per submission of the learned counsel for applicant, the applicant took voluntary retirement on 29/03/2007. It was accepted on 27/06/2007. On 28/06/2007 the applicant approached to join the duty, but he was not allowed. The O.A. No. 584/2007 was filed by the applicant before this Tribunal. The acceptance of the voluntary retirement was set aside by this Tribunal as per order dated 26/02/2008. The order of this Tribunal dated 26/02/2008 was challenged by the respondents before the Hon'ble Bombay High Court Bench at Nagpur in Writ Petition No. 3225/2008. The said Writ Petition was decided on 11/06/2019 and matter was remanded back to this Tribunal.

3. After remanding the matter, this Tribunal had decided the O.A. No.584/2007 on 02/08/2019. This Tribunal allowed the O.A. in terms of prayer Clause no. 7 (a). Thereafter, the respondents have not challenged the order of this Tribunal. Therefore now the order passed by this Tribunal directing the respondents to reinstate the applicant becomes final.

4. As per the submission of applicant, he approached to the respondents on 27/03/2008 to join the duty, but he was not allowed to

join the duty. Ultimately, the respondents allowed to join duty on 25/3/2009. The respondents have recovered all pension and other benefits given to the applicant after accepting the voluntary retirement along with interest. Therefore, the applicant has filed the present O.A. for direction to the respondents to pay all the arrears of retirement benefits as well as arrears of pension, interest which was recovered from the applicant.

5. Heard P.O. for the respondents Shri S.A. Sainis. The O.A. is strongly opposed by the respondents. It is submitted that the applicant applied for voluntary retirement. It was granted, but applicant again approached to join duty, he was not allowed to join duty. Therefore, the applicant filed O.A. No. 584/2007. As per the direction of this Tribunal, the applicant was allowed to join duty from 25/03/2009. The respondents have paid all the pensionary benefits to the applicant because of his voluntary retirement and those were recovered along with interest. The applicant now cannot claim that he shall be given the full pay of the absent period etc. Hence, the O.A. is liable to be rejected.

6. Heard Shri V.G. Wankhede, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents. There is no dispute that the applicant was working as a Senior Clerk with respondent no.4. There is no dispute that the applicant applied

for voluntary retirement on 29/03/2007. His application for voluntary retirement was accepted on 27/06/2007. The applicant again went to the office of respondent no.3 and applied to join duty on 28/06/2007. The applicant was not allowed to join duty, because, his application for voluntary retirement was granted. Therefore, the applicant approached to this Tribunal by filing the O.A. No.584/2007. This Tribunal vide order dated 26/02/2008 directed the respondents to allow the applicant to join duty. That order was challenged by the respondents vide Writ Petition No.3225/2008. The matter was remanded back to this Tribunal. Again this Tribunal after hearing both sides, allowed the O.A. No. 584/2008 on 02/08/2019. Thereafter, the respondents have not challenged the order dated 02/08/2019. By this Judgment / order dated 02/08/2019 this Tribunal confirmed the order passed by this Tribunal dated 26/02/2008.

7. The applicant applied to the respondents to allow him to join duty on 27/03/2008, but he was not allowed to join duty. Thereafter, the applicant was allowed to join duty on 25/03/2009.

8. As per the submission of the applicant, the respondents have recovered all the amount of pension received by him along with interest.

9. As per the submission of learned P.O. Shri S.A. Sainis, the pension and pensionary benefits which were paid to the applicant because of his voluntary retirement, were recovered. The Id. P.O. has filed reply of respondent nos.4 and 5 alongwith the Chart of recovery. It is marked **Exh-X** for identification. The Chart of recovery is as under-

अ.क्र.	लेखाशिर्ष	सेवानिवृत्ती विषयक लाभ अदा करण्यात आल्याचा दिनांक	राशी	अदा करण्यात आलेल्या राशीवर माहे ०३/०९ पर्यंतचे व्याज
१	२	३	४	५
	विभागा मार्फत			
१	उपदान	३१/१२/२००७	१२७०५०.००	१५०८७.००
२	स्वग्राम भत्ता	२०/०२/२००८	९१७०.००	९४४.००
३	गट विमा बचत निधी	२५/०३/२००८	२२४६२.००	२१३४.००
	कोषागार कार्यालया मार्फत			
४	निवृत्ती वेतन	--	९९४७०.००	--
५	अंशराशीकरण	२२/१२/२००८	१८८५११.००	४४७७.००
६	माहे ०४/०९ ते ०५/२०१३ पर्यंतचे व्याज		--	१००८५३.००
			४४६६६३.००	१२३४९५.००
		एकुण रुपये	५७०१५८.००	

10. The learned counsel for applicant submits that the applicant is entitled for salary of entire service period. He has filed copies of Service Book. It appears that some leave are sanctioned by the respondents. As per submission of the counsel for applicant some leave are not granted. There is no dispute that the applicant is now retired on 31/05/2013. The counsel for the applicant has submitted

that the applicant is now getting the pension, but whatever amount which was recovered by the respondents is not paid to the applicant.

Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to pay all the pensionary benefits to the applicant which was recovered by the respondents as per the Exh-X alongwith the interest as shown in the Chart.
- (iii) The respondents are directed to grant leave of the absent period, if any, if the leave were in balance and pay the salary of the absent period.
- (iv) No order as to costs.

Dated :- 02/12/2022.

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 : 02/12/2022.

Uploaded on : 05/12/2022.