

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.52 OF 2022

DISTRICT: PUNE

Shri Dilip S. Bandal,)
R/o. A-64, Mahavir Corner, Satara Road,)
Pune 411037.)... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through Additional Chief Secretary,)
Revenue & Forest Department, Having Office at)
Mantralaya, Mumbai-400 032.)
- 2) The Collector, Office of Collector,)
Solapur, Revenue Administration Division,)
Siddheshwar Path, Solapur 413001.)
- 3) Divisonal Commissioner, Pune Division, Pune)
Vidhan Bhavan, Pune 411 001.)
- 4) Accountant General (Accounts & Entitlement)-I)
Maharashtra, 2nd floor, Pratishtha Bhavan, 101,)
Maharshikarve Road, Mumbai 400 020.)
- 5) The Secretary, M.P.S.C. 51/2, 7th & 8th floors,)
Cooperaje Telephone Building, Maharashi Karve)
Road, Mumbai 400 021.)....**Respondents**

Smt. Punam Mahajan, learned Advocate for the Applicant.

Shri A.J. Chougule, learned Presenting Officer for the Respondents.

CORAM : A.P. Kurhekar, Member (J)

DATE : 10.03.2022.

ORDER

1. The Applicant stands retired (voluntary retirement) has filed present Original Application for direction to the Respondents to release his withheld retiral benefits and other consequential service benefits as well as arrears as per 7th Pay Commission.

2. The Applicant stands retired voluntarily from the post of Naib Tahsildar w.e.f. 06.10.2016. Interestingly, the Applicant had submitted notice of voluntary retirement on 07.07.2016 which was accepted by the Government after undue delay by order dated 09.05.2018 that too with retrospective effect from 06.10.2016. Another issue is that when notice of voluntary retirement was accepted that time D.E. was already initiated by issuance of charge sheet dated 10.03.2016 for regular inquiry but there is reference of D.E. in order dated 09.05.2018.

3. Apart, the Enquiry Officer has completed inquiry and submitted report to the Government through the Commissioner by letter dated 30.10.2017. The matter was kept in cold storage at the level of Government for near about 18 months and for the first time the show cause notice was given to the Applicant on 12.03.2019 as to why punishment of deduction of 10% pension for two years should not be imposed. The Applicant submitted reply on 04.04.2019.

4. The Government then forwarded the proposal to M.P.S.C. on 25.04.2019 for concurrence of punishment. In turn, the M.P.S.C. raised certain query by letter dated 14.10.2019 which was replied by the Government by letter dated 04.11.2019. Thereafter, the M.P.S.C. again raised certain queries by letter dated 29.01.2020 which was also replied by the Government by letter dated 29.10.2020. Here indeed, the reply to the queries ought to have been submitted immediately but it was delayed by nine months. Then again M.P.S.C. raised query by letter dated 17.08.2021 and also issued reminder to Government on 30.11.2021 then again M.P.S.C. sent reminder on 15.12.2021 as well as on 28.02.2022. Strangely, the Government could not locate these reminders dated 17.08.2021 and 15.12.2021, and therefore, there is no reference of the same in the Affidavit in Reply filed by Shri Nitin Kareer, Additional Chief Secretary. In Affidavit in Reply, incorrect statement is made that Gratuity is paid. Learned P.O. fairly concedes that Gratuity is not paid and the mistake happened due to rush of work. As such, now the matter is still in cold storage with M.P.S.C.

5. In terms of direction given by the Tribunal, the Secretary, M.P.S.C. has filed Affidavit stating that on receipt of information on queries, the M.P.S.C. will take decision and the same will be communicated to the Government.

6. In view of above, it is explicit that there is inordinate delay at every stage. In initial stage, the report of Enquiry Officer was kept in cold storage for about 18 months for which no satisfactory explanation is forthcoming. The M.P.S.C. is also equally responsible for inordinate delay in the matter. The M.P.S.C. ought to have raised all queries at once so that the issue is settled and necessary orders could be passed. However, M.P.S.C. has raised queries in piecemeal which again delayed the matter unnecessarily.

7. Suffice to say though the Applicant stands retired w.e.f. 06.10.2016, he is deprived of his retiral benefits for more than five years. It is only after filing of the O.A. and orders passed by the Tribunal, the authorities seem to have moved.

8. The Tribunal has come across such inordinate delay, laxity on the part of departments in so many matters and necessary orders are passed granting interest etc. but in vain. The Applicant's Counsel has also raised grievance of Provisional Pension since it was paid only for initial 12 months and then it was stopped which is not disputed. Non continuation of Provisional Pension and sitting over the matter of D.E. for years together shows total indifferent approach of the Respondents.

9. Indeed, in terms of Enquiry Manual and particularly in terms of Circular dated 07.04.2008 issued by G.A.D. specific instructions were issued to all the departments for completion of D.E. within six months from the date of its initiation. It further provides that where inquiry is not completed within six months, specific extension is required to be obtained from the Higher Authority as specified in the Circular.

Furthermore, it also provides that where D.E. is not completed within five years, in that event, inquiry should be conducted to fix the responsibility upon the concerned keeping D.E. pending. All these instructions are completely discarded rather thrown to the winds by the department. There seems to be no control of Head of the Department in the matter of completion of departmental inquiries.

10. If the punishment of 10% deduction from pension for two years as now proposed was finalized earlier or within reasonable time, the Applicant would have got remaining pension and other benefits. One can understand, if there is a case of dismissal of service or of complicated nature but it is not so in the present case. Suffice to say, inordinate delay and laxity on the part of concerned is clearly spelt out from the record. If the Applicant had not come to the Tribunal, perhaps the matter would have further delayed for years together. The Applicant is constrained to file this O.A. and to incur the cost of litigation. Therefore, I am inclined to impose the cost upon the Respondent Nos.1 to 3 and 5. Their liability is joint and several.

11. Original Application is, therefore, allowed subject to cost of Rs.20,000/- and the liability of the Respondent Nos.1 to 3 and 5 is joint and several. It be paid within a month from today. The Respondents are at liberty to fix the responsibility for delay in D.E. and to recover the same from the concerned.

12. The Respondents are further directed to pass final order in D.E. within two weeks from today and it be communicated to the Applicant. Further, monetary benefits of the Applicant subject to order of punishment shall be also released within a month after passing final order in D.E.

13. Insofar as interest is concerned, the Applicant is at liberty to redress his grievance of interest, independently.

14. In view of above, Original Application is accordingly disposed of.

Sd/-
(A.P. Kurhekar)
Member (J)

Place: Mumbai
Date: 10.03.2022
Dictation taken by: Vaishali S.Mane