

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.593 OF 2021

DISTRICT : RAIGAD

Dr. Avinash Krishnarao Jagtap.)
Age : 59 Yrs., Occu.: Medical Officer,)
Sub-District Hospital, Panvel (Navi Mumbai))
District : Raigad and residing at Flat No.3,)
Swamichatra Apartment, 'C' Wing,)
1st Floor, Juna Chandoli Road, Manchar,)
Tal.: Ambegaon, District : Pune.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Principal Secretary,)
Public Health Department, 8th Floor,))
G.T. Hospital Building,)
New Mantralaya, Mumbai – 1.)
2. The Commissioner of Health and)
Director N.H.M, 3rd Floor, Arogya)
Bhavan, St. Georges Hospital)
Campus, Near C.S.T, Mumbai – 1.)
3. The Deputy Director of Health)
Services, Mumbai Circle, Thane)
Mental Hospital Compound,)
Thane (W).)
4. The Medical Superintendent.)
Sub-District Hospital, Panvel,)
Swami Nityanand Marg, Valmiki)
Nagar, Old Panvel (W),)
District : Raigad – 410 206.)
5. The Deputy Director of Health)
Services, Nasik Circle, Shalimar)
Chowk, Trimbak Road,)
Nashik – 422 001.)

6. The Chief Executive Officer,)
Zilla Parishad, Trimbak Naka,)
Mohan Nagar, District : Nashik.)
7. The Accountant General (A & E)-I,)
Maharashtra, 2nd Floor, Prarishtha)
Bhavan, New Marine Lines, 101,)
Maharshi Karve Road,)
Mumbai – 400 020.)
- ...Respondents**

Mr. J.S. Deshmukh, Advocate for Applicant.

Mrs. A.B. Kololgi, Presenting Officer for Respondents 1 to 5.

Mrs. Bhairavi A. Ranpise, Advocate for Respondent No.6.

None appeared for Respondent No.7 though served.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 07.10.2021

JUDGMENT

1. This Original Application is filed for direction to the Respondents to release retiral benefits which are withheld from 31.12.2020.

2. The Applicant was Medical Officer at Sub-District Hospital, Panvel and stands retired from the said post on 31.12.2020. After retirement, he made various representations to release retiral benefits viz. gratuity, etc. but none responded. It is on this background, the Applicant has filed the present O.A.

3. On hearing learned P.O. and learned Advocate for Respondent No.6 as well as on perusal of O.A, it reveals that in the year 2007, the Applicant was absent unauthorisedly and he came to be suspended by order dated 02.11.2007. Thereafter, he was reinstated in service by order dated 16.12.2008 and departmental enquiry was initiated. In D.E, the Enquiry Officer has submitted report holding him guilty for

unauthorized absence, as seen from letter dated 08.02.2011 sent by Respondent No.6 to Respondent No.2 – Commissioner of Health and Director for appropriate action. However, no further order in D.E. has been passed though Applicant stands retired w.e.f.31.12.2020.

4. Indeed, when Enquiry Officer has submitted report in 2009, further final order in D.E. ought to have been passed by the appropriate authority expeditiously, but no such order was passed due to sheer inaction and lack of coordination. Regret to note that even after retirement, that issue is kept pending without passing any final order.

5. Indeed, in terms of Rule 122 of Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as 'Pension Rules of 1982' for brevity), the Head of Office was under obligation to complete pension papers before six months of the retirement of a Government. However, in the present case, even a final decision in D.E. was not taken for years together and no pension papers could be prepared, which has caused serious prejudice to the Applicant since he deprived of retiral benefits.

6. The learned Advocate for the Applicant submits that provisional pension and part of GPF is only granted.

7. The learned P.O. and learned Advocate for Respondent No.6 submitted that the Department would finalize the process and will pass appropriate orders soon, since Service Book is not updated for the reasons which are already adverted to above.

8. As stated above, the Enquiry Officer has submitted the report in 2009, but no final order was passed in the matter and only after retirement now the Respondents woke up to contend that for want of final order in D.E, the pension papers could not be processed and finalized.

9. In view of admitted factual aspects, inaction and sheer negligence on the part of concerned to pass appropriate orders at appropriate time is obvious. Indeed, Rule 120 read with Rule 122 of 'Pension Rules of 1982' provides that the Head of Office shall undertake work of preparation of pension papers two years before due date of retirement and pension papers should be completed at least before six months before the date to retirement. Had Respondents followed the procedure mandated in law, the Applicants perhaps would not have required to approach the Tribunal. Suffice to say, due to sheer laxity on the part of concerned, the Applicant is compelled to file the present O.A. for grant of withheld retiral benefits.

10. Since as of now, no orders are passed by the competent authority in the matter of unauthorized absence, now it is high time for the competent authority to pass appropriate orders in accordance to law and then to pass further orders about the entitlement of the Applicant to the remaining retiral benefits and is required to release the same without further delay.

11. Admittedly, the Applicant retired as Medical Officer (Group 'B') and competent authority for passing further final order in the matter of D.E. is Respondent No.1. The Respondent No.2 is required to submit appropriate proposal to Respondent No.1 so that the issue is taken to the logical conclusion.

12. In view of above, at present, there is nothing to be adjudicated in the matter and O.A. has to be disposed of with appropriate direction, so that Respondent Nos.1 & 2 shall pass appropriate orders in the matter without further loss of time.

13. Resultantly, the O.A. is disposed of with direction to Respondent Nos.1 & 2 to ensure completion of pension papers including passing final order in D.E. in accordance to law.

14. The Respondent Nos.1 & 2 are, therefore, directed to complete this exercise and then release withheld retiral benefits of the Applicant, if entitled to the same within three months from today.

15. The Applicant is at liberty to redress the issue of interest by availing legal remedy separately.

16. No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai

Date : 07.10.2021

Dictation taken by :

S.K. Wamanse.

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