

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.787/2014.

Shri Devidas Vithuji Kulsange,
Aged about 71 yrs.,
Occ- Pensioner,
R/o Plot No.6-A, New Shivaji Nagar,
(Old Kashi Nagar No.2), Abhay Nagar Road (W),
Rameshwari Ring Road, Nagpur.

Applicant

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Home Affairs,
Mantralaya, Mumbai-440 032.
- 2) The Police Superintendent,
Arms Inspection Branch, (AIB),
(M.S.), Ramtekdi, Pune-22.
- 3) The Director General of Police (M.S.),
Police Mahasanchalanalaya,
Shahid Bhagat Singh Marg, Mumbai-39,
- 4) Accountant General (A&E)-I, (M.S.),
101, Maharshi Karve Marg,
Mumbai-20,
- 5) Accountant General (A&E)-II, (M.S.),
Civil Lines, Nagpur-1,
- 6) Senior Treasury Officer,
Treasury Office, Civil Lines, Nagpur-1.

Respondents

Shri A.K. Waghmare, Ld. Counsel for the applicant.
Shri A.M. Ghogre, learned P.O. for the respondents.

Coram:- Hon'ble Shri J.D. Kulkarni,
Member (Judicial)

Dated: - 8th March 2017.

Order

The applicant has retired from the post of Police Sub-Inspector (PSI) on 30.6.2002. After retirement on 5.10.2010, the applicant issued one letter to the Deputy Inspector General of Police, Pune in respect of wrong pay fixation. It is stated that the applicant was not getting proper pension and in fact he was entitled to claim Rs. 2,72,257/- up to June 2002 alongwith compound interest thereon at the rate of 18% p.a.

2. According to the applicant, the Senior Treasury Officer had not calculated the amount of pension properly and difference of amount has not been credited and incorrect pay fixation has been done.

3. Being aggrieved by the incorrect pay fixation, the applicant approached the Honble High Court under Pre-Litigation Case No. 04/2013. Case was kept before the Lok Adalat conducted by Legal Aid Services Committee of the High Court on 16.11.2017. However, no amicable settlement was arrived at and, therefore, the applicant has filed this O.A.

4. The O.A. was amended during its pendency and prayer clause was also amended.

5. In the O.A., the applicant claimed for a declaration that the respondents' action in not paying the legitimate dues to the applicant was illegal, arbitrary, mala fide and contrary to the rules of law and claimed compensation for Rs. 10,00,000/- (Ten lacs) for harassment. Vide amended prayer, the applicant has prayed as under:-

(i.a) Be pleased to allow the application and thereby direct the respondents to correct the calculations of basis pays and subsequent pension which was wrongly done as on 1.1.1996, as on 26.2.1997, as on 1.8.2004 and as on 1.1.2006 as per the para No.6-Z of the O.A.

(i.b) and further direct the respondents to treat basic pension as on 1.7.2002 as Rs. 4325/- and further direct the respondents to treat the basic pension as on 31.12.2005 at the rate of Rs. 6488/- and further direct them to treat the basic pension as on 1.1.2006 at the rate of Rs. 14663/- and the consolidated basic pension at the rate of Rs. 27860/- vide para 6.Z of the O.A.

(i.c) further be pleased to direct the respondents to pay the balance of difference of arrears since January 1996 till December 2015 totalling to Rs. 38,92,806/- as narrated in para 6-Z of the petition and given in the charts annexed with the O.A. as Annexure Nos.31 & 32 with interest @ Rs. 12% p.a.

(i.d) declare that the third column in respect of consolidated amount attached with / part and parcel of the G.R. dated 5.5.2009 pertains to the 6th Pay, is null and void.+

6. In the affidavit in reply, the respondents have tried to justify the action on the part of the respondents. It is admitted that the applicant was superannuated and retired on 30.6.2002 and his pension was fixed at Rs. 3407/-. It is stated that the revision of pension was undertaken as per the recommendation of 6th Pay Commission and all steps were taken and revised pension was fixed by Senior Treasury Officer, Nagpur correctly. The respondents have given in their reply affidavit as to what is the correct quantum of pension to be paid to the applicant.

7. Heard Shri A.K. Waghmare, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

8. It is material to note that the applicant in this case has challenged his pay fixation and submitted that he did not get pension correctly as per the 4th, 5th and 6th Pay Commission. It is stated that initial fixation of his pay is itself illegal. The learned counsel for the applicant states that the applicant was getting basis pay of Rs. 1990/- prior to 4th Pay Commission and that should have been the basis for

fixation. His pay should have been fixed as Rs. 1990/- as on 1.1.1996 and on that basis he should have been paid arrears. The respondents, however, fixed his pay on 1.8.1996 illegally. The 4th Pay Commission was made applicable w.e.f. 1.1.1996 and not from 1.8.1996.

9. The learned counsel for the applicant today placed on record short points / short notes of argument in respect of grievance of the original applicant. In his notes of argument, the applicant has tried to point out as to exactly what should have been his basic pay prior to the application of 4th, 5th and 6th Pay Commission and what arrears should have been paid to him.

10. In his short points / short notes of argument, the applicant has stated that he be permitted to file comprehensive representation as regards his grievance in the O.A. and seeks eight days time to file such representation. The learned counsel for the applicant further submits that the application can be disposed of in case he is allowed to file such representation and decision is taken on such representation within a stipulated period. The learned P.O. frankly admits that such opportunity may be given to the applicant.

11. On perusal of the O.A. as well as amended O.A. and notes of argument submitted by the applicant, it seems that the

applicant is claiming number of reliefs in this O.A. His claim seems to be pertaining to his entire service period. The learned counsel for the applicant submits that the revision of pay is the continuing cause of action and until applicant's grievance is redressed in a proper manner, he can seek relief for proper fixation. Considering the reliefs claimed by the applicant, it seems that it will be in the interest of justice to allow the applicant to make a comprehensive representation whereby the applicant can put up his entire grievance, such as what shall be his exact pay on the date of retirement and how his pay should have been revised and fixed correctly at various stages and also as to what exact amount he is entitled to as arrears.

12. In view of the aforesaid circumstances, following order is passed:

The O.A. stands disposed of with following directions:

- (i) The applicant will be at liberty to file a comprehensive representation as regards his various grievances.
- (ii) Such representation shall be filed within eight days from today before respondent Nos. 2, 5 and 6 and the Accountant General, Mumbai (R.4).
- (iii) On receiving the said comprehensive representation, the competent authorities shall

take a decision thereon within six months from the date of receipt of comprehensive representation.

- (iv) The said decision shall be communicated to the applicant in writing by the registered post.
- (v) It is needless to observe that the applicant shall co-operate the respondent authorities and shall supply requisite information, if any, and appear before the competent authority as and when called for. With these directions, application stands disposed of with no order as to costs.

(J.D.Kulkarni)
Member (J)