

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 02/ 2023 (S.B.)

Pradip Harishchandra Pund,
Age 59 years, Occ. Retired,
R/o Maharudra Colony, Arjun Nagar,
Amravati, Tq. & Dist. Amravati.

Applicant.

Versus

- 1) State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai.
- 2) Superintendent of Police, Gadchiroli,
S.P. Office, Gadchiroli,
Tq. and Dist. Gadchiroli.
- 3) Accountant General (A&E) II,
Office at Civil Lines, Nagpur,
Tq. and Dist. Nagpur, (M.H.).

Respondents

Shri P.A.Kadu, Id. Advocate for the applicant.

Shri V.A.Kulkarni, Id. P.O. for the Respondents.

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

Dated :- 28.07.2023.

JUDGEMENT

Heard Shri P.A.Kadu, Id. counsel for the applicant and Shri
V.A.Kulkarni, Id. P.O. for the Respondents.

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

The applicant was initially appointed on the post of Electrician as per appointment order dated 29.12.1983 in the Police Department. The applicant was posted in Nagpur Region on the post of Electrician. The post of Electrician is equivalent to the post of Head Constable.

3. On 14.01.1994 applicant was promoted on the post of Radio-Mechanic, which is equivalent to the post of Assistant Sub Inspector. He was posted in Amravati Range. Thereafter applicant was transferred with respondent no. 2. After rendering services of 37 years applicant is retired from the post of Radio Mechanic on 31.01.2021.

4. As per the provisions of Maharashtra Civil Services (Pension) Rules, 1982 certain obligation imposed upon the employer such as preparation of pension papers before two years from the date on which the employee is due to retire. The pension papers are to be forwarded well within time so that the employee gets retirement benefits without any delay. Rule 129-A & 129-B deals with interest on delayed payment of gratuity as well as pension.

5. After the retirement of applicant w.e.f. 31.01.2021, no steps were taken by the respondents to finalize the pension papers. Applicant was given provisional pension till July, 2022. However, it was abruptly stopped from August, 2022.

6. There is no delay on the part of the applicant for finalization of pension papers. Neither any departmental enquiry nor criminal prosecution is pending against the applicant so as to withhold gratuity or regular pension. The applicant made representation to the respondents but respondent not paid any pension and gratuity. Hence, the applicant filed this present O.A. for following reliefs:-

A. Direct the respondents 2 & 3 to release regular pension of the applicant along with an interest as per Rule 129 (B) of the Maharashtra Civil Services (Pension) Rules, 1982 in the interest of justice.

B. Direct the respondents 2 & 3 to release amount of gratuity of the applicant along with an interest as per Rule 129 (A) of the Maharashtra Civil Services (Pension) Rules, 1982 in the interest of justice.

7. The O.A. is strongly opposed by the respondent no. 2 by filing reply. It is submitted that in order to avoid financial crises of applicant, respondents utilizing his authority paid provisional pension for the period of six months. During the period of Covid-19 it was directed by Government of Maharashtra by G.R. dated 07.05.2021 that the authority of the respondent no. 2 for disbursing the provisional pension to the retired personnel was extended from the 6 months to 12 months which

was applicable upto 31st March, 2022. The respondents have paid provisional pension for about 18 months and after the expiry of provisional pension period the same was stopped from month of August, 2022. It is submitted that because of the Covid-19 the pension papers were not forwarded within time to the A.G. office, therefore, there was delay. As per the submission of ld. P.O., there is no delay and hence the O.A. is liable to be dismissed.

8. Respondent no. 3 has filed reply and submitted that pension papers were forwarded by respondent no. 2 on 25.11.2022 which was received on 02.12.2022. According to the respondent no. 3 proposal for extension of provisional pension of the applicant has not been received in this respondent's office. Hence, respondent no. 3 was not at fault. Therefore, O.A. is liable to be dismissed against respondent no. 3.

9. Ld. P.O. for the respondent submitted that during the pendency of this O.A., applicant has received pension and gratuity. He further submits that because of the Covid-19, respondent no. 2 could not submit the pension papers. There was a G.R. dated 25.06.2020. As per this G.R. provisional pension was paid to the applicant.

10. There is no dispute that applicant was retired on 31.07.2021. The pension papers were submitted by respondent no. 2 on 25.11.2022. Respondent no. 3 received the said papers on 02.12.2022. Thereafter,

respondents have paid the pension and pensionary benefits (gratuity etc.)

11. The Government G.R. dated 25.06.2020 reads as under:-

“महाराष्ट्र नागरी सेवा (निवृत्तिवेतन) नियम १९८२ नुसार सेवानिवृत्त / मृत शासकीय कर्मचा-यांना मंजूर करावयाचे तात्पुरते निवृत्तिवेतन/ कुटुंब निवृत्तिवेतन हे पहिल्या ६ महिन्यांकरिता मंजूर करण्याचे अधिकार कार्यालय प्रमुखांस आहेत. तथापि, उपरोक्त परिस्थिती विचारात घेता, तात्पुरते निवृत्तिवेतन / कुटुंब निवृत्तिवेतन मंजूर करावयाचे अधिकार एक "विशेष बाब" म्हणून पहिले १२ महीने कार्यालय प्रमुख व त्यापुढील १२ महिन्याच्या कालावधीसाठी विभाग प्रमुखांकडे प्रत्यार्पित करण्यात येत आहेत. २४ महिन्यांनंतर मुदतवाढ द्यावयाची झाल्यास लेखा परीक्षा अधिका-याच्या सल्ल्याने कार्यालय प्रमुखांनी पुढील ६ महिन्यासाठी तात्पुरते निवृत्तिवेतन मंजूर करण्याची कार्यावाही करावी. मात्र ३० महिन्याच्या कालावधीनंतरही तात्पुरते निवृत्तिवेतन / कुटुंब निवृत्तिवेतनास मुदतवाढ द्यावयाची झाल्यास अशी प्रकरणे वित्त विभागाकडे पाठविण्यात यावी.”

12. From the perusal of G.R. dated 25.06.2020, it appears that respondent no. 2 was authorized to pay provisional pension upto 24 months after the advice of A.G. it may be extended upto 6 months but after 30 months permission of Finance Department was to be obtained. It

appears that respondent no. 2 was authorized to pay provisional pension upto 30 months but he has paid only upto 18 months. It appears that the respondent no. 2 was at fault. Moreover, it was the duty of respondent no. 2 to forward the pension papers to the A.G. well in advance before the retirement of applicant, so that employee could get the pension within time. Reason of Covid-19 cannot be a ground to deny the pension of the employee. Government offices were not closed at the time of Covid-19, they were working. Therefore, respondents cannot take shelter of Covid-19.

13. **Hon'ble Supreme Court in the case of State of U.P. and Ors. Vs. Dharendra Pal Singh (2017) 1 SCC 49** has held that:-

"Pension and gratuity are not any bounty to be distributed by Government to its employees on retirement but are valuable rights in their hands, and any culpable delay in disbursement thereof must be visited with penalty of payment of interest. Further held, in absence of any plea that delay in payment of retiral dues was due to employee's fault and employer had obtained permission in writing from controlling authority in terms of Section 7(3-A), Payment of Gratuity Act, 1972, appellants liable to pay interest @ 6% p.a. on unpaid pension amount from date it had fallen due and interest @ 8% p.a. on

unpaid amount of gratuity from date of retirement of employee till the actual payment.”

14. In the present case the applicant was not at fault for the delay for submitting pension papers. There is neither any departmental enquiry nor any misconduct against the applicant. It was the duty of respondent no. 2 to forward the pension papers well in advance before the retirement. The respondent no. 2 forwarded the pension papers on 25.11.2022, respondent no. 3 received the same on 02.12.2022. Thereafter the respondent no. 2 sanctioned the pension case of the applicant. The pension papers were submitted by the respondents after the retirement of applicant. Applicant was retired on 31.07.2021, therefore, it is clear that there was delay on the part of respondents to pay the pension and gratuity. There is no dispute that applicant has received the pension and gratuity amount during the pendency of this O.A., therefore, he is only entitled for the interest. Hence, the following order:-

- A. The O.A. is allowed.
- B. The respondents are directed to pay interest @6% on unpaid pension amount from the date of retirement and interest @8% per annum on unpaid amount of gratuity from the date of retirement till the actual payment.

- C. Respondents are further directed to calculate the amount of interest and shall pay the same **within three months** from the date of receipt of this order.
- D. No order as to costs.

(Shri Justice M.G.Giratkar)
Vice Chairman

Dated :- 28/07/2023.
aps

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 28/07/2023.
and pronounced on

Uploaded on : 31/07/2023.