

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 215/2023 (S.B.)

Bhagwan Pandurang Mawaskar
Aged about 60 years,
Occ.-Pensioner, Driver,
R/o Government Quarter premises,
Near School No.12, Jalamb Road,
Khamgaon, Tq. Khamgaon,
Dist. Buldana, Pin-444 303.

Applicant.

Versus

- 1) State of Maharashtra,
Through Secretary Public and Works Department,
Mantralaya, Mumbai-32.
- 2) Superintending Engineer,
Public Works Department,
Circle Gorakshan Road,
Akola, Tq. & Dist. Akola-444 001.
- 3) Executive Engineer,
Public Works Department,
Khamgaon, Tq. Khamgaon,
Dist. Buldana, Pin 444 303.

Respondents

Shri G.S.Shegaonkar, Id. Advocate for the applicant.

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

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 06.02.2024.

Judgment is pronounced on 16.02.2024.

Heard Shri G.S.Shegaonkar, ld. counsel for the applicant and Shri V.A.Kulkarni, ld. P.O. for the Respondents.

2. Case of the applicant is as follows. The applicant joined the respondent department as Driver on 17.12.1984. On 11.10.2017 collision between the vehicle which was being driven by him, and another vehicle occurred for which he was not at all responsible. One Pankaj Deshmukh filed a false motor accident claim petition alleging that in that accident he had sustained injuries and suffered permanent disability and the accident had taken place due to rash/negligent driving of the applicant. The applicant retired on superannuation on 30.01.2021. His retiral benefits were not released. The same could not have been withheld due to pendency of aforesaid claim petition. Hence, this Original Application.

3. According to the respondent Criminal Case is also pending against the applicant for rash/negligent driving and hence Provisional Pension is paid to him and Gratuity is withheld. Their further case is that amounts of G.P.F., Leave Encashment and Group Insurance have been paid to the applicant. Correctness of this assertion is borne out by record (at P. 31). On 19.01.2024 ld. P.O. placed on record extract of Case Status

which shows that S.C.C. No. 450/2018 is pending against the applicant in the Court of C.J.J.D./J.M.F.C., Murtizapur. It was submitted by Advocate Shri Shegaonkar, for the applicant that in the extract of case status surname of the accused is stated to be Gawaskar whereas surname of the applicant is Mawaskar and on the basis of this discrepancy it can be concluded that said criminal case is pending against someone else and not the applicant. There is no merit in this submission. The applicant himself has stated about the accident. First and middle name of the accused in criminal case are stated to be Bhagwan and Pandurang which tally with the first and middle name of the applicant.

4. According to the respondents, Provisional Pension is being paid, only amount of Gratuity is withheld and rest of the benefits have been paid. I have referred to payments which are stated to have been made to the applicant. This position is not disputed by him.

5. Rule 130 (1) of the Maharashtra Civil Services (Pension) Rules, 1982 which is relevant, reads as under:-

130. Provisional pension where departmental or judicial proceedings may be pending.

(1) (a) In respect of a Gazetted or Non-gazetted Government servant referred to in sub-rule (4) of rule 27 the Head of Office shall authorise the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government servant, or if he was under suspension on

the date of retirement upto the date immediately preceding the date on which he was placed under suspension.

(b) The provisional pension shall be authorised by the Head of Office for a period of six months during the period commencing from the date of retirement unless the period is extended by the Audit Officer and such provisional pension shall be continued upto and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.

(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.

Considering this Rule no fault could be found with payment of Provisional Pension and withholding of Gratuity. Rest of the benefits have been paid. For all these reasons, the O.A. is dismissed with no order as to costs.

Member (J)

Dated :-16 /02/2024
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 Member (J).

Judgment signed on : 16/02/2024
and pronounced on

Uploaded on : 17/02/2024