

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 258 / 2021 (S.B.)**

Vijay Vasant Nagdeo,
Aged about 59 years, Occ. Retired Govt. Officer,
R/o 75, Vivekanand Nagar,
Wardha Road, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
Through its, Principal Secretary (Energy),
Department of Industry, Energy and Labour,
Mantralaya, Mumbai-400 032.
- 2) The Chief Electrical Inspector,
Department of Industry, Energy and Labour,
Office at : 3rd Floor, Administrative Building,
Ramkrishana Chemburkar Marg, Chembur (E),
Mumbai – 440 071.
- 3) Superintendent Engineer (Electrical),
Nagpur Region, Public Works Department,
Civil Lines, Nagpur.
- 4) Accountant General-II,
Civil Lines, Nagpur.

Respondents

Shri R.V.Shiralkar, 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 27th June, 2022.

Judgment is pronounced on 05th July, 2022.

Heard Shri R.V.Shiralkar, ld. counsel for the applicant and Shri V.A.Kulkarni, ld. P.O. for the Respondents.

2. Principal grievance of the applicant who retired on superannuation on 31.07.2020 as Superintending Engineer is that there was inordinate delay in making payment of his retiral benefits, no D.E. was at that time either pending or contemplated, and, therefore, he is entitled to get interest on the amount on account of belated payment.

3. According to the applicant he made representations dated 20.03.2013, 10.01.2018 and 21.01.2020 (A-2 to A-5, respectively) for payment for holding additional charge, grant of benefit of one step higher promotional pay and allowances, updating and supplying duplicate service book and grant of permanency certificate.

4. It is the contention of the applicant that his pension case ought to have been processed and payment made as per time frame and procedure stipulated in Rules 118 to 125 of the Maharashtra Civil Services (Pension) Rules, 1982 which the respondents failed to do. His representations dated 11.08.2020, 27.08.2020, 29.09.2020, 06.11.2020 and 15.01.2021 (A-6 collectively) too, went unheeded. Hence, this application.

5. The applicant has placed on record at A-7 charge showing the amount due under various heads of retiral benefits.

6. Chart of amount stated to be due filed by the applicant at the time of final hearing is at page no. 64.

7. The applicant has placed on record, at page no. 24 (A-9) copy of order passed in O.A. No. 200/2021 by the Principal Bench of this

Tribunal. By this order the present applicant who was one of the applicants in O.A. No. 200/2021, was directed to approach this Bench. Accordingly, he has filed instant original application.

8. A-10 is copy of Judgment passed in O.A. No. 200/2021. It refers to Rules 120, 121 and 122 of the Maharashtra Civil Services (Pension) Rules, 1982 which read as under:-

“120. Preparation of pension papers

(1) Every Head of Office shall undertake the work of preparation of pension papers in Form 6 in respect of Non- gazetted Government servant as well as Gazetted Government servant, whose pay and allowances are drawn by him on establishment bills, two years before the date on which they are due to retire on superannuation ; or on the date on which they proceed on leave preparatory to retirement, whichever is earlier.

(2) The Audit Officer shall undertake the work of preparation of pension papers in Form 6, two years before the date on which a Gazetted Government servant, other than mentioned in sub-rule (1) above who is due to retire on superannuation or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier.

(3) The time schedule and procedure prescribed in these rules shall be followed by the Audit Officer on whom the responsibility for preparation of pension papers in respect of Gazetted Government servants under sub-rule (2) has been entrusted.

(4) In the case of a Government servant holding a lien or a suspended lien on a Non gazetted post and holding a Gazetted post in a temporary or officiating capacity at the time of retirement and whose pay and allowances are not drawn by the Head of Office on establishment bills, the Head of Office shall send the service book of the Government servant concerned to the Audit Officer two years in advance of the date of retirement of such Government servant or as soon as possible if such Government servant is promoted to officiate in a Gazetted post only during the last year of his service, after verifying that the certificate of verification relating to non-gazetted service has been recorded and that the service book is complete in all respects.

121. Stages for the completion of pension papers

(1)The Head of Office shall divide the period of preparatory work of two years referred to in rule 120 in the following three stages :-

*(a) **First Stage-** Verification of service :-*

(i) The Head of Office shall go through the service book of the Government servant and satisfy himself as to whether the certificates of verification for the entire service are recorded therein.

(ii) In respect of the unverified portion or portions of service, he shall arrange to verify the portion or portions of such service, as the case may be, with reference to pay bills, acquittance rolls or

other relevant records, and record the necessary certificates in the service book.

(iii) If the service for any period is not capable of being verified in the manner specified in sub-clause (i) and sub-clause (ii), that period of service having been rendered by the Government servant in another Office or Department, a reference shall be made to the Head of Office in which the Government servant is shown to have served during that period for the purpose of verification.

(iv) If any portion of service rendered by a Government servant is not capable of being verified in the manner specified in sub-clause (i) , or sub-clause (ii), or sub-clause (iii), the Government servant shall be asked to file a written – statement on plain paper stating that he had in fact rendered that period of service, and shall , at the foot of the statement, make and subscribe to a declaration as to the truth of that statement, and shall, in support of such declaration, produce all documentary evidence and furnish all information which is in his power to produce or furnish.

(v) The Head of Office shall, after taking into consideration the facts in the written statement and the evidence produced and the information furnished by that Government servant in support of the said period of service, admit that portion of service as having been rendered for the purpose of calculating the pension of that Government servant.

(b) Second Stage – Making good omission in the service book :-

(i) The Head of Office while scrutinizing the certificates of verification of service, shall also identify if there are any other omissions, imperfections or deficiencies which have a direct bearing on the determination of 'Pensionable Pay' and the service qualifying for pension.

(ii) Every effort shall be made to complete the verification of service, as in clause (a) and to make good omissions, imperfections or deficiencies referred to in sub-clause (i) of this clause. Any omissions, imperfections or deficiencies including the portion of service shown as unverified in the service book which it has not been possible to verify in accordance with the procedure laid down in clause (a) shall be ignored and service qualifying for pension shall be determined on the basis of the entries in the service book.

(iii) Calculation of Pensionable Pay :- For the purpose of calculation of pensionable pay, the Head of Office shall verify from the service book the correctness of the pay drawn or to be drawn during the last ten months of service. In order to ensure that the pay during the last ten months of service has been correctly shown in the service book, the Head of Office may verify the correctness of pay for the period of twenty-four months only, preceding the date of retirement of a Government servant, and not for any period prior to that date.

(C) Third Stage – Obtaining Form 5 by the Head of Office:- Eight months prior to the date of retirement of the Government

servant, the Head of Office shall obtain Form 5 from the Government servant, duly completed.

(2) Action under clauses (a), (b) and (c) of sub-rule (1) shall be completed eight month prior to the date of retirement of the Government servant.

122. Completion of pension papers:-

The Head of Office shall complete Part I 1(and Part-III) of Form 6 not later than six months before the date of retirement of the Government servant.”

9. In their reply at pages 25 to 33 respondent nos. 1 & 2 have contended that delay was not intentional and it was caused by administrative difficulties. In their additional reply at pages 45 to 47 they have contended as follows:-

“2. So far as pension case of the applicant is concerned it would not be out of place to mention here that, due to restrictions imposed due to pandemic of Covid-19, the Government offices were working with reduced strength and therefore several cases were already pending with the office of pay verification unit, Nagpur. In anticipation of the delay, that would cause in finalizing the pension case of the applicant, to facilitate him the provisional pension was commenced as immediate steps. Now after completing all the requirements of regular pension, the same is commenced to be paid regularly since January, 2022.”

10. At page no. 50 (A-R-9) respondent nos. 1 and 2 have filed details of payments of retiral benefits made to the applicant.

11. It is not in dispute that delay was caused in paying retiral benefits to the applicant. I have quoted Rules 120 to 122. These Rules lay down the procedure for and stipulate the time frame within which pension papers are required to be processed so as to facilitate payment of retiral benefits. This procedure was not adhered to. Therefore, the applicant would be entitled to get interest for the period of delay @ applicable to G.P.F..

12. The applicant has prayed that respondents be directed to pay allowance for holding additional charge of the post of Electrical Inspector at Gadchiroli and Chandrapur for the period from 21.06.2011 to 26.09.2012. So far as this prayer is concerned, respondent nos. 1 & 2 have resisted the same by contending as follows:-

“8. The applicant was Electrical Inspector, Chandrapur having grade pay of Rs. 6600/- and holding the additional charge of Electrical Inspector, Gadchiroli from 21.06.2011 to 26.09.2012. The department of State Government of Maharashtra through its Government Resolution dated 27.12.2011 had clarified the powers of departmental head and regional head regarding sanctioning additional charge allowance of an employee. As per provision in the G.R. dated 27.12.2011, then Superintending Engineer, Nagpur Region (Electrical) Circle, Nagpur (Regional Head) had rejected the additional charge allowance application of the applicant as the grade pay of the post of which he was holding the additional charge is not less than Rs. 6600/-. A letter was

issued to the applicant by the Superintending Engineer, Nagpur Region (Electrical) Circle, Nagpur having letter no. 311 dated 10.02.2015 in response to the applicants application dated 20.03.2013 annexed as Annexure-A-2 in the application.

9. The applicant was working as Electrical Inspector, Chandrapur which was declared as a Naxal affected area as per the Government resolutions put into effect from time to time. The applicant therefore was granted the one step promotional pay and incentive allowance as per office order no. 129 dated 20.07.2013 by the Superintending Engineer, Nagpur Region (Electrical) Circle, Nagpur. However, in pursuance of the directions in G.R. of Home Department of Government of Maharashtra dated 26.12.2014, one step promotional pay and incentive allowance was stopped and the pay of the applicant was revised as per order no. 22 dated 22.01.2015 by the Superintending Engineer, Nagpur Region (Electrical) Circle, Nagpur. Again, as per the home department G.R. dated 18.02.2015, the above mentioned office order was further revised and the one step promotional pay and incentive allowance was sanctioned as per office order no. 31 dated 31.07.2015 by the Superintending Engineer, Nagpur Region Electrical Inspection Circle, Nagpur with retrospective effect.

10. There is no such provision or G.R./ Circular to grant double one step promotional pay and incentive allowance for an employee who is already working in Naxal affected district and is having additional charge of any post which also fall in

Naxal affected district. Hence one step promotional pay and incentive allowance cannot be given for both the parts."

13. The aforementioned contentions of respondent nos. 1 & 2 are not traversed by the applicant.

14. For the reasons discussed hereinabove the application is allowed in the following terms:-

1. The respondents are directed to pay interest on delayed payment of Leave Encashment, G.P.F., Gratuity, G.I.S., Pension commutation, Regular pension arrears and provisional pension @ applicable to G.P.F. after calculating the period of delay, within one month from today – to the applicant.
2. The respondents would be at liberty to fix the responsibility for delay in making payment and recover the same from the concerned.
3. The respondents are further directed to supply updated service book and permanency certificate of working on the post of Superintending Engineer – to the applicant within one month from today.
4. No order as to costs.

Member (J)

Dated :- 05/07/2022.

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 : 05/07/2022.
and pronounced on

Uploaded on : 06/07/2022.