

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 330/2019 (S.B.)

Dr. Suryakant S/o Shriram Dalvi,
Aged about 60 years,
R/o Jain Nagada Society,
Khamgaon, Dist. Buldhana.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Public Health,
Mantralaya, Mumbai- 32.
- 2) The Dy. Director of Health Services,
Akola Circle, Akola.
- 3) The District Health Officer,
Zilla Parishad, Buldhana.

Respondents

Shri N.R.Saboo, Id. Advocate for the applicant.

Shri S.A.Sainis, Id. P.O. for the Respondents.

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

JUDGEMENT

Judgment is reserved on 10th Aug., 2023.

Judgment is pronounced on 23rd Aug., 2023.

Heard Shri N.R.Saboo, Id. counsel for the applicant and Shri
S.A.Sainis, Id. P.O. for the Respondents.

2. By common judgment dated 05.05.2018 (A-1) six O.As. including O.A. No. 95/2017 filed by the applicant were decided.

Operative part of this common judgment reads as under:-

All the O.As. are partly allowed. The applicants in O.A. Nos. 798/2016, 95/2017, 114/2017, 403/2017 and 444/2017 shall be allowed to continue in the services till the date they attain the age of 60 years. They will be entitled to claim salary from the date of this order till they attain the age of 60 years. The applicants in O.A. No. 826/2016, i.e., Dr. Anil Rabade, Dr. Premanand Thorat and Dr. Anilsingh Raghuvanshi shall be deemed to have retired on attaining the age of 60 years, but they shall not be entitled to claim any arrears of salary till attaining the age of 60 years or arrears thereon. Except as aforesaid the applicants, will be presumed to have been retired on attaining the age of 60 years. No order as to costs.

Pursuant to this order the applicant resumed duty on 26.11.2018. He retired on superannuation on 31.01.2019. Till this point of time salary and arrears were not paid to him as per order dated 05.05.2018. Medical Officers who too, were affected due to non-implementation of order dated 05.05.2018 filed contempt petition. On receipt of notice of contempt their salary and arrears were paid. This was not done in the case of the applicant perhaps because he had not filed contempt petition. Hence, this O.A. for following reliefs:-

i) To direct the respondents to forthwith release his salary as well as arrears of pay as directed by this Hon'ble Tribunal in O.A. 95/17 annexed to O.A. at Annexure-A-1.

ii) To direct the respondents to fix the pay of the applicant to release all monetary claim towards arrears & interest on delayed payment.

3. Stand of respondent no. 2 is that the applicant was working on the establishment of respondent no. 3, respondent no. 3 was the drawing and disbursing authority, while working on this establishment the applicant superannuated, it was responsibility of respondent no. 3 to pay salary, arrears and retiral benefits to the applicant, and respondent no. 3 was duly informed about it by letters which are collectively marked A-R-2-2.

4. Reply is not filed by respondent no. 3.

5. It is apparent on record that salary and arrears payable to the applicant could not have been withheld and it was respondent no. 3 who should have paid it as and when the same became due. The applicant cannot be non-suited because he did not file contempt petition. It is not disputed that those who stood on equal footing and filed contempt petition succeeded in getting their grievance redressed. Therefore, on the ground of parity also, the applicant will succeed. Hence, the order:-

O R D E R

A. The O.A. is allowed.

B. Respondent no. 3 is directed to fully comply with order dated 05.05.2018 passed by this Tribunal so far as it relates to the applicant, and pay consequential benefits within three months from today.

C. No order as to costs.

(Shri M.A.Lovekar)
Member (J)

Dated :- 23/08/2023.
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 Member (J).

Judgment signed on : 23/08/2023.
and pronounced on

Uploaded on : 24/08/2023.