

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 646 / 2020 (S.B.)**

Shri Uttamrao S/o Kisanrao Manvar,
Aged about 66 years, Occupation:-Retired,
R/o At Post : Babhulgaon, Tal. Baghulgaon,
District - Yavatmal (M.S.)

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Vocational and Technical Education,
Mantralaya, Mumbai- 32.
- 2) The Deputy Director of Technical Education,
Amravati Region, Office at Gadge Nagar,
Amravati-444 603.
- 3) The Collector, Yavatmal.
- 4) The Principal,
Government Polytechnic, Yavatmal.

Respondents

Shri G.G.Bade, Id. Advocate for the applicant.

Shri A.M.Khadatkar, Id. P.O. for the Respondents.

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

JUDGMENT

Judgment is reserved on 27th July, 2022.

Judgment is pronounced on 28th July, 2022.

Heard Shri G.G.Bade, Id. counsel for the applicant and Shri
A.M.Khadatkar, Id. P.O. for the Respondents.

2. Case of the applicant is as follows. The applicant was in service of the respondent department from the year 1982 and after break again joined in 1989 and thereafter the applicant worked continuously till his absorption in Class-III category. The applicant joined in pursuance of order dated 29.09.2003 with the respondent department and subsequently retired on 31.08.2012 on attaining age of superannuation. The applicant was in continuous employment of respondent department from the year 1989 and as such he has completed more than 20 years of qualifying service as per the Maharashtra Civil Services Pension Rules, 1982 and as such, the applicant is entitled for retirement benefits of pension. The pay scale of the Maharashtra State Government employees was revised w.e.f. 01.01.1996 as per the fifth pay commission report and the pay scale of Rs. 750-950/- was revised to pay of Rs. 3050-4590/- w.e.f. 01.01.1996. Pay fixation of the applicant was made on being absorbed on government service. Maharashtra State Government vide G.R. dated 21.04.1999 has decided to protect basic pay of Muster Assistants absorbed in government service. As per the above said G.R. dated 21.04.1999 the pay fixation of applicant is to be made on the basis of pay drawn by the applicant as Muster Assistant at the time of absorption in permanent government service. Copy of the said G.R. dated 21.04.1999 is annexed as A-4. The applicant has completed about 9 years of service, therefore as per rule 54 of the Maharashtra Civil Services (Pension) Rules, 1982, a deficiency needs to be condoned and thus direction needs to be issued to the department to condone the deficiency as per Rule 54 of the Pension Rules of 1982. On the basis of aforesaid case the applicant is claiming following relief:-

“Direct the department to condone the deficiency in service, thereby direct the department to grant pensionary benefits to the applicant”

3. In support of this prayer the applicant is relying on Rules 54 and 4 of the Maharashtra Civil Services (Pension) Rules, 1982. These Rules read as under:-

“54. Condonation of deficiency and addition in service

Government may, for special reasons to be recorded in writing-

(1) condone a deficiency, which may not ordinarily exceed one year, in the period of service qualifying for pension performed by a Government servant in order to qualify him to receive a Retiring Pension or to receive a pension as distinct from a gratuity; or

(2) make an addition, which may not ordinarily exceed one year, to the period of service qualifying for pension, performed by a retiring Government servant which under the provisions of these rules may be counted for pension

Note- The power under sub-rule (1) shall be exercised only in respect of low paid Government servants retiring on Invalid or Compensation pension.”

4. Power of relaxation

Where Government is satisfied that the operation of any of these rules causes or is likely to cause undue hardship in the case of any Government servant of class or Government servants, it may, by an order in writing, exempt any such Government servant or class of Government servants from any provisions of these rules or may direct that such provision shall

apply to such Government servants or class of Government servants with such modifications not affecting the substance thereof as may be specified in such order.

4. The applicant is further relying on G.R. dated 01.03.2018 (A-6). It states:-

“श्री विठ्ठल जनार्दन कुलकर्णी यांनी तलाठी पदावर केलेली एकूण ९ वर्षे ४ महीने सलग सेवा व मा. मुंबई उच्च न्यायालय, खंडपीठ औरंगाबाद यांनी याचिका क्रमांक २५८९/२०१२ व इतर संलग्न याचिका मध्ये दिलेला दिनांक १३/०८/२०१५ चा सामाईक निर्णय विचारात घेउन श्री कुलकर्णी यांना निवृत्ती वेतनाचे लाभ अनुज्ञेय होण्यासाठी महाराष्ट्र नागरी सेवा (निवृत्तीवेतन) नियम, १९८२ मधील नियम ५४(२) नुसार त्यांच्या सेवा कालावधीमध्ये विशेष बाब म्हणून एकूण ७ महीने भर घालण्यास शासनाची मंजूरी देण्यात येत आहे. त्यानुसार जिल्हाधिकारी, सांगली यांनी श्री. कुलकर्णी यांना सेवा निवृत्ती वेतन सुरु करण्याबाबतचा प्रस्ताव महालेखापाल, महाराष्ट्र - २ नागपूर यांच्या कार्यालयाकडे तातडीने सादर करावा.

हा शासन निर्णय वित्त विभागाच्या अनौपचारिक संदर्भ क्रमांक २३२/१६/सेवा-७, दिनांक ०२.०२.२०१८ अन्वये मिळालेल्या सहमतीने निर्गमित करण्यात येत आहे.”

The applicant is claiming parity with Shri Vittal Kulkarni.

5. The applicant has also relied on the Judgment of this Tribunal dated 24.11.2021 in O.A. No. 644/2020 in which aforequoted Rule 54 was considered. It was observed:-

“As per the Rule 54 (2) of the MCS (Pension) Rules, the respondents can make an addition of one year to the service of the applicant, so that he can get the pensionary benefits”

6. Reply of respondent no. 3 is at pages 45 to 49. He has resisted the application on the ground that the applicant ought to have made a detailed representation, and that too, without loss of time.

7. Having regard to facts of the case and the Rules, following order needs to be passed. Hence the order:-

ORDER

Original Application is allowed in the following terms:-

1. The applicant shall make a representation to respondents 1 & 2 on the basis of Rules 54 and 4 of the Maharashtra Civil Services (Pension) Rules, 1982.
2. The respondents are directed to decide the representation of the applicant within a period of two months from the date of receipt of this order.
3. No order as to costs.

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

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 : 27/07/2022.
and pronounced on

Uploaded on : 28/07/2022.