

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 141/2019 (D.B.)

Vijay Ambadas Nagarale,
Aged 59 years, Occ. Govt. Servant,
R/o F-5, Moreshwar Plaza, Ram Nagar, Thakkar Colony,
Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Technical Education,
Mantralaya, Mumbai-32.
- 2) Director, Technical Education,
Directorate, 3, Municipal Corporation Road,
Post Box No. 1967, Near Cama Hospital,
Mumbai-400 001.
- 3) Joint Director, Technical Education,
Regional Office, Sadar, Nagpur.
- 4) Principal, Govt. Polytechnic College, Gadchiroli.

Respondents.

Shri R.V.Shiralkar, Id. Advocate for the applicant.

Shri H.K.Pande, Id. P.O. for the respondents.

**Coram :- Shri Shree Bhagwan, Vice-Chairman and
Shri M.A.Lovekar, Member (J).**

Dated :- 24/12/2021.

JUDGMENT

Per : Member (J).

Heard Shri R.V.Shiralkar, Id. Counsel for the applicant and
Shri H.K.Pande, Id. P.O. for the Respondents.

2. It is the case of the applicant that he was appointed as "Librarian" by order dated 11.06.1986 (A-1). His service record is unblemished. The post of 'Librarian' falls within the definition of "Teacher" given in Section 2 (34) of the Maharashtra Universities Act, 1994". This definition is as follows:-

"Sec. 2 (34) "Teacher" means full time approved professor, associate professor, reader, lecturer, librarian (Principal, deputy or assistant librarian and documentation officer in the University and college librarian), director or instructor of physical education in any university department, conducted, affiliated or autonomous college, autonomous institution or department or recognised as teacher by the universities Act itself."

On 14.11.1995, R-1 issued a G.R. (A-2) stipulating therein :-

"'kl u fu.k; & egkj'V^a fo | ki hB dk; nk 1994 ¼1994 pk dk; nk dækd 35½ e/khy i dj.k 1 P; k dye 2 ¼34½ i æk.kso fnukad 30 vkkLV 1995 P; k Li "Vhdj.k vkns'kkud kj f'k{k.k I dxkph 0; k[; k fnysyh vkgs ; krhy xñki ky Eg.ktsfo | ki hBh; xñki ky o I gk; d xñki ky rl p egkfo | ky; hu xñki ky ; kæk f'k{k d I dxk' I ekfo"V dj.; kr vkysvl Y; keGSR; kæk f'k{k d I dxk'Zdjrk vl yysvkns k ykxw gkrkr-

2- 'kl u vkrk ; k fu.k; kko; segkj'V^a fo | ki hB dk; nk 1994 e/khy dye 2 ¼21½ vko; s vl y; k vf/kdkjpk oki j d: u fo | ki hBh; xñki ky] mi xñki ky o I gk; d xñki ky rl p egkfo | ky; hu xñki ky ; k i næk fcxj l eph 'k{kf.kd i ns Eg.ku ?kks'kr dfjr vkgs dkj .k nh?kZl e; k; k dkyko/khr xñky; spkymB. ksgsf'k{k d o fo | kF; k; k 'k{kf.kd nf"Vdkukru fgrkog vkgs ; keGsf'k{k d I dxk'Zk feG.kk& k

nh?kz l e; k R; kauk feG.kkj ukghr- R; kauk f'k{kcd&rj de?k&; kauk ykxw vl ysys
l ok'krizl af/kr i ek.kl fgrk 1984 e/khy j tpsfu; e ykxwghrhy-"

By G.R. dated 11.12.1999 (A-3) age of superannuation of teachers was extended to 60. Clause 22 of the G.R. reads as under:-

"22. Superannuation and re-employment:

The age of superannuation of teachers shall be 60 years and thereafter no extension in service shall be given. However, it may be open to a University or a college to re-employ a superannuated teacher according to the existing guidelines framed by the University Grants Commission, upto the age of 65 years. However, salary expenditure for such re-employment period beyond 60 years of age shall not be held admissible for purposes of grant-in-aid. The age of superannuation of teachers in Government Colleges and institutes of Science shall, however, continue to be 60 years subject to the conditions laid down under Government Resolution No. SCT-1089/68588/(4672)/ADM-2, dated 20.12.90.

Age of superannuation of Registrars, Librarians, Physical Education, Personnel who are being treated at par with the teachers will be 60 years. No re-employment facility is recommended for the Registrars, Librarians and Directors of Physical Education. The persons appointed to the post of Registrar, other than teachers will be retired at the age of 58 years. "

Since Librarians working in Government Colleges are treated to be at par with Teachers, their age of superannuation, too, will be 60 years. The applicant would have retired on superannuation on 30.04.2020 since his date of birth is 01.05.1960. On 23.04.2018 respondent no. 3

issued communication (A-6) to respondent no. 4 to retire the applicant on 30.04.2018 i.e. on completion of 58 years since guidelines regarding extending age of superannuation of Librarians to 60 years to be issued by the Government were awaited by the Directorate. This communication was acted upon and the applicant was prematurely retired on 30.04.2018. He submitted representation (A-7) to respondent no. 2 to grant extension till completion of 60 years. Act of retiring the applicant on 30.04.2018 was illegal. The applicant would be entitled to all monetary benefits, including computation of pension, by treating his date of superannuation to be 30.04.2020. Hence, this application.

3. Reply of respondent no. 3 is at page nos. 41 to 45. In para no. 7 it is stated :-

"7. Considering the latest G.R. dated 05.03.2019, the applicant was allowed to rejoin on duties on the post of Librarian on 26.03.2019. It is submitted that so far as the pay and allowances of the applicant after his date of retirement w.e.f. 30.04.2018 till the date of rejoining i.e. 26.03.2019 is concerned, suffice it to say that the applicant was extended all the retirement benefits and in addition to this the applicant had drawn pension for the above mentioned period and therefore, the regularization of the said period will be required to be decided as per M.C.S. Rules as well as as per the sanction of the appropriate authorities."

4. Respondent no. 3 has annexed G.R. dated 05.03.2019 issued by Higher and Technical Education Department (A-R-2). This G.R. stipulates:-

'kkI u fu.kz &

vf[ky Hkkjrh; ra=f'k{k.k ifj"knB; k l mHkkZ/khu dæad 01 o 02 ; Fkhy vknsk fopkjr ?krk jkT; krhy mPp o ra= f'k{k.k foHkkxkP; k v[kR; kjhrhy ra=f'k{k.k l pyukay; karxir vl yS; k 'kkI dh; @vuqkfur vfhk; ki=dh @ vksk/kfuekz'kkL=@ okLrqqkkL= egkfo |ky; @ ra=fudrusrl p] MNckcl kgc vkæMdj ra='kkL= fo |ki hB o jI k; u ra=Kku l lFkrhy xiki ky ; k f'k{k d l ed{k i nkP; k l okfuorRhpso; 58 o"khZ: u 60 o"khZdj.; kl [kkyhy vVhP; k v/khu jkgu 'kkI u eatjhnsvkg&

¼1¼fnukad 01-01-2006 rs ; k 'kkI u fu.kz kP; k fnukadki ; ir njE; kuP; k dkyko/khe/; s l okfuorR gksu 2 o"khZ s'kk vf/kd dkyko/kh >kyS; k xiki kykuk o; kP; k 60 0; k o"khZ l okfuorR dj.; kr vkysvkgsvl sxghr /k: u l okfuorRhpSykHk obrj l olvuqkæhd ykHk ns; kr ; kos-

¼2¼fnukad 01-01-2006 rs ; k 'kkI u fu.kz kP; k fnukadki ; ir njE; kuP; k dkyko/khe/; s l okfuorR gksu 2 o"khZ s'kk deh dkyko/kh >kyS; k xiki kykuk i tggk l or l kekou ?; kos R; kvuqkækusR; kulk ns vl .kkjs l ol okfo"K; d ykHk ns; kr ; kos-

¼3¼; k 'kkI u fu.kz kP; k i fl ihurj l okfuorR gskk& k xiki kykuk o; kP; k 60 0; k o"khZ l okfuorR dj.; kr ; kos"

5. The applicant has, by filing pursis (at page nos. 84 and 85), placed before this Tribunal subsequent developments as follows:-

"2. The applicant submits that during the pendency of original application the applicant asked to join service again. The applicant joined the post of librarian at Govt. Polytechnic College, Gadchiroli on 26.03.2019 and stood retired from service on 30.04.2020 after attaining 60 years of age. A copy of order of retirement dated 30.04.2020 issued by the Principal, Govt. Polytechnic College, Gadchiroli is annexed and marked as Annexure-A-9. The applicant is entitled for pension and pensionary benefits but nothing is paid stating that his case is pending before this Hon'ble Tribunal which is illegal and arbitrary. "

6. On considering submissions and record of the case we have come to the conclusion that the applicant will be entitled to following relief. Hence the order:-

ORDER

The O.A. is allowed in the following terms:-

Premature retirement of the applicant (dated 30.04.2018) would be treated to be non-est. For extending monetary benefits, including computation of pension, the applicant would be treated to have continued in service without break till his retirement on superannuation on 30.04.2020 i.e. on completing 60 years. From the

salary and allowances payable to the applicant for the intervening period viz 01.05.2018 to 25.03.2019, the amount of pension received by him for the said period shall be deducted. No order as to costs.

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

(Shree Bhagwan)
Vice-Chairman.

Dated :- 24/12/2021.

*aps.

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

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 24/12/2021.

Uploaded on : 25/12/2021.