

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 491 of 2022 (S.B.)**

Shri Sukhdeo S/o Sahadeo Shendre,  
Aged about: 66 years, Occu: Retired,  
R/o.Plot no.254, NIT Layout, Trimurti Nagar,  
Nagpur.-440022.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Secretary, Department of Revenue & Forest,  
Mantralaya, Mumbai.
- 2) The Chief Conservator of Forest, (Territorial), Nagpur.
- 3) The Deputy Conservator of Forest, Bhandara.
- 4) The Range Forest Officer, Tumsar, District Bhandara.
- 5) The Accountant General-II Maharashtra, Civil Lines, Nagpur.

**Respondents.**

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**S/Shri S.D. Chande, N.T. Jichakar Advocates for the applicant.  
Shri M.I. Khan, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 06/11/2023.**

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**J U D G M E N T**

Heard Shri S.D. Chande, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was appointed in the Forest Department on the post of Forest Guard. He was posted at Pauni Range. The applicant was to retire on 31/03/2015. The applicant was absent for about 372 days from the duty. Even before the retirement, the applicant not submitted his application for grant of leave, therefore, the respondents issued notice to the applicant to submit the application so that his pension case will be processed. The applicant not filed any application for grant of leave within time. Therefore, there was a delay in process of pension case.

3. Even after the retirement in the year 2015, the applicant not vacated the Government residential Quarter at Tumsar and therefore notice was issued to the applicant to pay the rent as per the G.R. The applicant challenged the said notice in O.A.No.193/2017. In the said O.A., the applicant also prayed to grant interest for not paying the pension within time. The said O.A. was partly allowed by this Tribunal and directed the respondents to initiate the action as per the law to recover occupation charges from the applicant after giving him opportunity of hearing.

4. Thereafter, the respondents issued notice and after hearing the applicant again issued recovery order. The applicant had not vacated the Government residential Quarter, therefore, the recovery order dated 09/01/2020 of Rs.2,14,980/- (P-29) was issued.

The applicant even after the Judgment of this Tribunal not vacated the Government Quarter and therefore the notice was issued by the respondents. Hence, the applicant approached to this Tribunal challenging the notice dated 09/01/2020 and prayed for direction to the respondents to pay interest @ 18% on the pensionary benefits w.e.f. 31/03/2015.

5. The respondents have filed the reply and denied the contention of the applicant. It is submitted that the applicant was due for retirement on 31/03/2015. The applicant was absent from duty for about 372 days. But even before the retirement, the applicant not moved any application for grant of leave and therefore he was issued notice to submit application for grant of leave so that his pension case will be processed. It is submitted that the applicant not vacated the Government Quarter. At last the panchnama was prepared by respondents dated 11/04/2018. The applicant was retired on 31/03/2015, but he did not vacate the Government Quarter till 27/03/2017. The respondents have calculated the H.R.A. as per the G.R. issued from time to time and therefore there is no illegality to recover the said amount from the applicant. Hence, at last submitted the O.A. is liable to be dismissed.

6. During the course of submission, the learned counsel for applicant submits that he does not want to place prayer clause no.9 (iii) in respect of interest.

7. The learned counsel for applicant further submitted that the applicant is not getting the pension till date and therefore the respondents be directed to grant pension and pensionary benefits.

8. This Tribunal while deciding the O.A.Nos.89/2017 and 193/2017 has held in para-10,11 and 16 as below –

*“(10) It appears from the facts and circumstances of the case that the applicant retired on 31/3/2015 and before his retirement letter dated 22/1/2015 was written by the respondents to the applicant. The applicant was called upon to submit leave application about his absence from 27/11/2012 to 25/8/2013. It is pertinent to note that the applicant did not take any step to comply the direction, therefore, it is apparent that there was no co-operation given by the applicant to the office for preparation of the pension case. Had applicant shown promptness to comply the direction in the letter dated 22/1/2015 it was possible for the respondents to prepare the pension case before retirement of the applicant. Thus it seems that due to contributory negligence of the applicant there was a delay in preparation of the pension case.*

11. *The applicant was aware that he was residing in the Government accommodation and it was his duty to vacate it after his retirement or after expiry of the permissive period. The applicant did not vacate the Government accommodation alleging that as pension case was not sanctioned, therefore, it was not possible for him to vacate the Government accommodation. I do not see any merit in this contention for the reason that the applicant was responsible for this complication. Had the*

*applicant submitted the information in time to justify his absence of 372 days before his retirement, then, the department could have prepared the pension case before retirement of the applicant. It seems that the applicant is taking advantage of his own wrong.*

16. *In this background, I would like to point out that as the action of the applicant retaining the Government accommodation after his retirement and after expiry of the permissive period is illegal, it cannot be justified. The Government accommodation is a public property and for its unlawful occupation the applicant is bound to pay. If the applicant is permitted to enjoy the Government accommodation without paying occupation charges, then it will encourage the unjust enrichment.”*

9. It is held in the above cited Judgment by this Tribunal that the applicant is taking benefit of his own wrong. The applicant has not vacated the Government Quarter even after the retirement. The applicant was retired on 31/03/2015, but he retained the Government Quarter till the panchnama, i.e., 11/04/2018. The respondents have taken possession of Government residential Quarter occupied by the applicant on 11/04/2018, therefore, the respondents have withhold the pension of the applicant to recover the rent of Government residential Quarter. The applicant has paid only Rs.1,25,000/-. Rest of the amount is to be recovered by the respondents.

10. From the perusal of the various documents filed by the respondents, it is clear that the applicant is adamant person. He is not complying the direction given by the respondents. He is not attending in the office of Treasury Officer. He is not complying the required

formality for grant of pension. Therefore, he cannot seek the interest etc. Moreover, same relief was prayed by the applicant in the earlier O.A. The said relief was dismissed by this Tribunal. As to why again this relief is made, not answered by the side of applicant. Hence, there is no merit in the O.A. Hence, the following order –

**ORDER**

The O.A. is dismissed with no order as to costs.

**Dated** :- 06/11/2023.

dnk.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/11/2023.