

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 712/2021(S.B.)**

Shankar s/o. Chindhabaji Gaikwad,
Aged about 61 years, Occ. Retired,
Range Forest Officer, R/o 84,
Dhadiwal Lay-out, Manewada, Ring Road,
Suyog Nagar, Nagpur-440027.

Applicant.

Versus

- 1) State of Maharashtra,
Through its Secretary,
Forest Department,
Mantralaya, Mumbai – 32.
- 2) Chief Conservator of Forests(Territorial),
2nd Floor, B.S.N.L. Building,
Near Kasturchand Park,
Nagpur-440001.
- 3) Divisional Forest Officer,
Social Forestry Division,
Administrative Building No.2,
Wing-B, 7th Floor, Civil Lines, Nagpur-01.
- 4) Accountant General (A & E)-II,
Maharashtra, Civil Lines, Nagpur-01.

Respondents

Shri P.V.Thakre, Ld. Counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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

Dated: - 11th April 2023.

JUDGMENT

Judgment is reserved on 28th March, 2023.

Judgment is pronounced on 11th April, 2023.

Heard Shri P.V.Thakre, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the respondents.

2. On 16.05.2011 when he was working as Range Forest Officer, the applicant was placed under suspension in contemplation of initiation of departmental enquiry. He and others were charge sheeted and enquiry commenced. He retired on superannuation on 28.02.2017. Because of pendency of departmental enquiry provisional pension was accordingly fixed. By representation dated 21.06.2021 (Annexure A-1) the applicant requested for re-fixation of pension as per revised pay but to no avail. Hence, this O.A. for following reliefs-

- i) Direct the respondents to revise the applicant's pay as per 7th Pay Commission and direct them to pay the arrears thereof.***
- ii) Direct the respondents to grant revised provisional pension and gratuity taking into account the revised pay fixation as per prayer clause (i) and the consequential arrears thereof.***

iii) Grant any other relief which this Hon'ble Tribunal deems fit & proper in the facts & circumstances of the present case.

3. Though stand of respondents 2 and 3 is that due to pendency of departmental enquiry none of the prayers made by the applicant can be allowed, in view of documents on record said stand cannot be accepted.

In para 9 of his reply respondent no.4 has averred-

9. This office vide letter dated 27.08.2021 requested department to furnish the copy of revised provisional pension of first six months to this office.

4. To his rejoinder the applicant has annexed copy of letter dated 27.08.2021 (Annexure A-2) addressed to respondent no.3. It reads as under-

महोदय,

उपरोक्त विषय के संबंध में यह सूचित किया जाता है कि, इस कार्यालय द्वारा श्री शंकरराव चिंधबाजी गायकवाड को छठवे वेतन आयोगानुसार आपके विभाग से प्राप्त दिनांक १३/०९/२०१७ के प्रस्ताव अनुसार उपरोक्त संदर्भानुसार इस कार्यालय द्वारा अस्थाई पेंशन देने संबंधी प्राधिकार पत्र जारी किया जा चुका है। श्री शंकरराव चिंधबाजी गायकवाड ने उपरोक्त संदर्भ क्र.२ अनुसार सातवे वेतन आयोगानुसार अस्थाई पेंशन की मांग की है। आपके विभाग से प्रस्ताव अब तक इस कार्यालय को अप्राप्त है।

अतः सातवे वेतन आयोगानुसार अस्थाई पेंशन देने हेतु आपके विभाग से सातवें वेतन आयोगानुसार पहले छः माह का अस्थाई पेंशन मंजूर कर, आदेश की प्रत तथा प्रस्ताव इस कार्यालय को भेजे तत्पश्चात ही इस संबंध में आगे की कार्रवाई की जा सकेगी।

5. There is also one previous communication dated 04.02.2021 (Annexure R-6) made by respondent no.4 to Treasury Officer. It reads as under-

महोदय,

इस कार्यालय द्वारा उपरोक्त संदर्भ क्र.२ के अनुसार श्री.एस.सी.गायकवाड को अस्थाई पेंशन रु.८७९८/- की दर से दि.०१/०९/२०१७ से विभागीय जाँच पूर्ण होने तक प्राधिकृत किया जा चुका है। तथा विभाग से प्राप्त संदर्भ क्र.१ के प्रस्ताव अनुसार श्री.एस.सी.गायकवाड को दि.०६/११/२००७ से आश्वासीत प्रगती योजना का पहिला लाभ मंजूर होने के कारण उनके सुधारीत अस्थाई पेंशन रु.१२७८५/- है। अतः आपको यह सूचित किया जाता है कि श्री.एस.सी.गायकवाड को सुधारीत अस्थाई पेंशन रु.१२७८५/- दि.०१/०९/२०१७ से विभागीय जाँच पूर्ण होने तक इस दर से भुगतान करने की व्यवस्था करें। जोकि मंजूर पुरानी अस्थाई पेंशन के भुगतान के अधीन है।

6. Considering contents of above referred letters, the O.A. deserves to be allowed. Hence, the order.

ORDER

1. The O.A. is allowed in terms of prayer clauses (i) and (ii).

2. This order shall be complied with within two months from today.
3. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 11/04/2023
rsm.

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J).
Judgment signed on : 11/04/2023.
and pronounced on