

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.914 OF 2016

DISTRICT : THANE

Shri Arun Anandrao Desale,)
Age 44 years, Instructor (Mechanic),)
Government Technical High School, Kopri, Thane)
R/o C-404, Chavandai CHS, Parsik Nagar,)
Kharegaon, Kalwa, Thane)..Applicant

Versus

1. The State of Maharashtra,)
Through the Principal Secretary,)
Skill Development & Entrepreneurship Deptt.,)
Mantralaya, Mumbai 400032)
2. The Transport Undertaking,)
Thane Municipal Corporation,)
Administrative Building, Road No.27 & 34,)
Wagle Depot, Wagle Estate, Thane (W),)
3. The State of Maharashtra,)
Through Principal Secretary,)
Finance Department, Mantralaya, Mumbai)
4. The Principal Secretary,)
Urban Development Department,)
Mantralaya, Mumbai 400032)

5. The Municipal Commissioner,)
Thane Municipal Corporation, Thane)..Respondents

Shri B.A. Bandiwadekar – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for Respondents No.1, 3 & 4

Shri M.D. Lonkar – Advocate for Respondent No.5

Shri N.K. Rajpurohit – Advocate for Respondent No.2 is Absent.

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Smt. Medha Gadgil, Member (A)
RESERVED ON : 3rd October
PRONOUNCED ON: 16th October, 2023
PER : Smt. Medha Gadgil, Member (A)

J U D G M E N T

1. Heard Shri B.A. Bandiwadekar, learned Advocate for the Applicant, Smt. K.S. Gaikwad, learned Presenting Officer for Respondents No.1, 3 & 4 and Shri M.D. Lonkar, learned Advocate for Respondent No.5.

2. The applicant challenges the impugned order dated 26.10.2015 passed by the respondent no.1 rejecting request of the applicant to extend as a special case the benefits of his past service between 15.12.1995 and 19.5.2011 rendered in the Transport Undertaking, Thane Municipal Corporation (TMC) and that he be granted all consequential service benefits.

3. The applicant joined as Mechanic, Class-I, Transport Undertaking, TMC on 15.12.1995. He joined the Government service as a direct recruit on 20.5.2011 as Instructor (Mechanic).

4. Ld. Advocate for the applicant prays that service rendered by the applicant in TMC should be counted for the pensionary benefits. He refers to the following GRs in support of his contention. In GR dated 19.7.1993 the respondent no.3 took a policy decision to consider the services rendered by employees either in State Government or Central Government or Autonomous body and transferred to the Central Government or State Government for pensionary benefits. He also refers to GR dated 12.3.1997 wherein respondent no.3 took policy decision to consider the liability for pensionary benefits the services rendered by the employees either in the State Government or Central Government and transferred there from to the Central Government or State Government. He also refers to GR dated 17.11.2008 wherein GAD took a decision to absorb in Government service all employees of erstwhile Maharashtra Electronic Corporation Limited (MELTRON).

5. Ld. Advocate for the applicant further argued that on 27.2.2009 the respondent no.3 issued resolution laying down policy decision in the matter of division of liability towards pension in respect of previous service rendered by Central Government/State Government servants or servants from Autonomous institutions of the Central Government/State Government.

6. In GR dated 5.3.2010 the respondent no.3 took a policy decision to consider the eligibility for pensionary benefits the service rendered by the employees either in the State Government or Central Government or autonomous body and transferred there from to the Central Government or State Government etc. in the light of the New Pension Scheme (DCPS). He therefore prays that in the light of these GRs his services in the TMC should be counted for pensionary purpose.

7. Per contra the Ld. PO opposes the contentions raised by the Ld. Advocate for the applicant and relied on the affidavit dated 25.9.2023 filed by Manisha Yuvraj Kamte, Dy. Secretary, Finance Department, Mantralaya, Mumbai wherein paras 5 & 6 reads as under:

“5. I say and submit that Municipal Corporation are not given grant by the State Government. Salaries of employees of Municipal Corporation are not given out of Consolidated Fund of State Government. Finance Department Government Resolution dated 19.7.1993 is applicable to Central/State Government employees moving to State / Central Autonomous Bodies and State / Central Government as well as Central / State Autonomous Bodies moving to State / Central Autonomous Bodies. Therefore the 17 years of service rendered by Shri Desale as Mechanic, Class-I in Municipal Transport Service, Thane cannot be continued to his present Government service.

6. I say and submit that Municipal Corporation does not form part of State Government and service rendered in Municipal Corporations cannot be considered for pension to the persons who were subsequently applied in State Government.”

8. She further states that Municipal Corporation does not form part of the State Government and services rendered in Municipal Corporation cannot be considered for pension to the persons who are subsequently appointed in the State Government and therefore GR dated 2.12.1997 is not applicable.

9. Shri M.D. Lonkar, learned Advocate for Respondent No.5 submitted that in this matter policy decision is to be taken by the Government in Urban Development Department and Finance Department. He also relied

on the affidavit dated 14.12.2016 filed by Sudhir S. Raut, Transport Manager, Thane Municipal Transport Undertaking and affidavit dated 12.6.2018 filed by Sandeep A. Malvi, Transport Manager, Thane Municipal Transport Undertaking on behalf of respondent no.2.

10. This matter revolves whether his services in TMC can be treated as Government service and therefore he is entitled to pensionary and consequential benefits. In this case it is useful to refer to the facts of the case. The applicant was working in the TMC as Mechanic, Class-I. However, he submitted his resignation on 16.5.2011 and thereafter he joined the State Government on 20.5.2011. It is apposite to reproduce the condition of GR dated 27.2.2009 in this regard:

“०४. केंद्र / केंद्राच्या स्वायत्त संस्थांमध्ये निवृत्तीवेतनाई आस्थापनेवर कार्यरत असलेल्या ज्या कर्मचाऱ्यांनी दि.१.१.२००४ रोजी किंवा त्यानंतर तांत्रिक राजीनामा देवून राज्य / राज्याच्या स्वायत्त संस्थांमध्ये नियुक्ती स्विकारली असेल, त्यांची पूर्वीची सेवा निवृत्तीवेतनासाठी जोडून देण्यात येणार नाही. मात्र राज्याने नवीन परिभाषित योजना दि.१.११.२००५ पासून लागू केली असल्यामुळे केंद्र/ केंद्रांच्या स्वायत्त संस्थांमधील (केंद्र शासनाच्या दि.२९.८.१९८४ च्या कार्यालयीन जापनातील परि.४ मध्ये नमूद केलेल्या स्वायत्त संस्थेच्या व्याख्येमध्ये समाविष्ट होणाऱ्या संस्था) जे कर्मचारी दि.१.११.२००५ पूर्वी राज्याच्या सेवेत रुजू होतील, त्या कर्मचाऱ्यांना राज्याच्या सेवेत रुजू होण्याच्या दिनांकापासून (दि.१.११.२००५ पूर्वी) महाराष्ट्र नागरी सेवा (निवृत्तीवेतन) नियम लागू होतील. ”

11. We have also examined the affidavit in reply dated 25.9.2023 filed by Manisha Yuvraj Kamte, Dy. Secretary, Finance Department, Mantralaya, Mumbai wherein it is clearly stated that the Municipal Corporation does not form part of the State Government and hence service rendered in the Municipal Corporation cannot be considered for pension to the persons who are subsequently appointed in the Government. The GR dated 19.7.1993 of Finance Department is applicable only to

Central/State Government employees moving to State / Central Autonomous Bodies and State / Central Government as well as Central / State Autonomous Bodies moving to State / Central Autonomous Bodies. It is thus clearly seen that service rendered by the applicant in Municipal Transport Services, Thane cannot be counted to his present Government service.

12. In view of the above mentioned facts and the analysis of the GRs it is crystal clear that reliefs sought for by the applicant in this OA cannot be granted and the OA deserves to be dismissed.

13. Original Application is dismissed. No orders as to cost.

Sd/-

(Medha Gadgil)
Member (A)
16.10.2023

Sd/-

(Mridula Bhatkar, J.)
Chairperson
16.10.2023

Dictation taken by: S.G. Jawalkar.