

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
REVIEW APPLICATION No.10 of 2016
IN ORIGINAL APPLICATION No. 117 of 2016 (DB)

Dr. Bhojraj Baswantrao Choudhari,
Aged about 61 years,
Occ. Service as Associate Professor in Music Department,
Government Vidarbha Institute of Science & Humanities
(VMV), Amravati.
R/o Rathinagar, Amravati, Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Higher & Technical Education Department,
Mantralaya, Mumbai-32.
- 2) The Director,
Higher & Technical Education Department,
Central Building, M.S. Pune-411 001.
Dist. Pune.
- 3) The Director,
Government Vidarbha Institute of Science &
Humanities (VMV), Amravati
Tq. & Dist. Amravati.

Respondents.

Shri V.A. Kothale, Advocate for the applicant.

Shri P.N. Warjurkar, P.O. for the respondents.

**Coram :- Shri Shree Bhagwan,
Member (A) and
Shri Anand Karanjkar, Member (J).**

JUDGMENT

Per : Anand Karanjkar : Member (J).

(Delivered on this 8th day of April,2019)

Heard Shri V.A. Kothale, learned counsel for the applicant and Shri P.N. Warjurkar, learned P.O. for the respondents.

2. The applicant was serving as Associate Professor since 2012. On 5/3/2011 the Government of Higher and Technical Education Department issued G.R. extending the age of the retirement up to 62 years. The applicant requested to give him the benefit of the G.R., but it was refused on the ground that the departmental inquiry was pending against the applicant. The applicant was compelled to retire on completing age of 60 years on 30/09/2015.

3. The applicant filed O.A.117/2016 and challenged the action of the respondent no.1 not giving him the benefit of the Government G.R. dated 5/3/2011. The learned Single Bench allowed the application vide order dated 30/06/2016 and directed the respondents to permit the applicant to retire at the age of 62 years, allow him to join the service without there being any discontinuity. However the learned Single Bench directed that the applicant will not be entitled for the back wages for the period during which he was out of service.

4. It is submission of the applicant that even if it is accepted that the applicant stood retired on 30/09/2015 then also he was entitled for the pension as per the rules till the order passed on

30/06/2016, but without considering this aspect the matter came to be decided and it was held that the applicant was not entitled for the back wages till the order passed by the Bench. It is submitted that grave injustice is caused to the applicant and therefore the impugned order be set aside and direction be given to the respondents to pay the salary of the applicant from 1/10/2015 to 30/06/2016.

5. Our attention is invited to the Government Circular dated 14/01/2016. In this Circular it is mentioned that in the similar situation the complication arose, because, there cannot be two retirements in a service tenure of Government servant and in view of this, we think it necessary to refer the case of the applicant to the Government for taking appropriate decision regarding salary of the applicant from 01/10/2015 to 30/06/2016 or to pay him pension. The Government is directed to decide the case of the applicant within four months from the date of this order. No order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Member (A).

Dated :- 08/04/2019.

*dnk.

ORDER

In view thereof, the Review Application No.10 of 2016 in O.A.No. 117 of 2016 stands disposed of with no order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Member (A).

Dated :- 08/04/2019.

*dnk.