

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 323/2019(S.B.)

Dinkar S/o Shripat Manvar,
Aged about 59 years,
Occupation : Retired,
R/o. IUDP Colony, Washim,
Tah. and District Washim.

Applicant.

Versus

1. The State of Maharashtra,
Through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,
Amravati Division, Amravati.
3. The Collector, Washim,
District - Washim.

Respondents

Shri A.D.Girdekar, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

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

Dated: - 06th October, 2023.

JUDGMENT

Heard Shri A.D.Girdekar, learned counsel for the
applicant and Shri V.A.Kulkarni, learned P.O. for the Respondents.

2. In O.A.No.323/2019, the applicant was arrested for the offence of punishable under Sections 7, 12 13(1) (d) r/w Section 13(2) of the Prevention of Corruption Act, 1988 and registered Crime No.3093/2015. He was suspended as per the order dated 26.08.2015. The departmental enquiry was initiated. The applicant is retired. The applicant was punished in the departmental enquiry as per order dated 19.11.2016 and one increment was permanently stopped.

3. The respondents have not paid pensionary benefits because of the pendency of criminal case.

4. The O.A. is strongly opposed by the respondents. It is submitted that as per the Rule 130 of Maharashtra Civil Services (Pension) Rules, 1982 pensionary benefits cannot be granted till the decision of criminal case.

5. Rule 130 of Maharashtra Civil Services (Pension) Rules, 1982 is very clear. It is reproduced below.

130. Provisional pension where departmental or judicial proceedings may be pending:

(1)(a).....

(b).....

(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.

6. As per Rule 130(1)(C) no gratuity shall be paid to the Government servant until the conclusion of departmental or judicial proceedings and issue of final orders thereon.

7. The Division Bench of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Govind Trimbakrao Kanadkhedkar Vs. Chief Executive Officer, Zilla Parishad & Ors.** **decided on 08.01.2019** has held as under-

3. It is not disputed that the criminal prosecution is pending against the petitioner. Rule 130 of Maharashtra Civil Services (Pension) Rules, 1982 apply. In view of the said provision, the petitioner is entitled for provisional pension pending the Judicial proceedings. As provisional pension is already sanctioned to the petitioner, the relief of pensionary benefits as claimed by the petitioner can not be granted.

4. The petitioner may make an application to the Court where the criminal prosecution is pending to decide his criminal prosecution expeditiously.

8. The Hon'ble Bombay High Court has held that Rule 130 (1)(c) is very clear. During the pendency of criminal proceedings the pensionary benefits such as gratuity etc. cannot be paid. The employee/the applicant may apply to the Criminal Court for decision of the criminal case as early as possible. In the present matter, criminal case is pending before the Court and therefore, in view of the Rule 130 of Maharashtra Civil Services (Pension) Rules, 1982 pension, gratuity etc. cannot be paid to the applicant. Therefore, the applicant is not entitled for the relief as prayed. Hence, the following order is passed-

ORDER

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

(Justice M.G.Giratkar)
Vice Chairman

Dated - 06/10/2023
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 Vice Chairman .
Judgment signed on : 06/10/2023.
Uploaded on : 12/10/2023.