

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 797/2018(S.B.)**

Dr. Madhukar Pundlikrao Parchand,  
Aged about 65 years,  
Occ: Retired, R/o 81, Dindayal Nagar,  
Saraswati Housing Society, Nagpur.

**Applicant.**

**Versus**

1. The State of Maharashtra,  
through its Secretary,  
Medical Education and Drugs Department,  
Mantralaya, Mumbai.
2. Director,  
Medical Education and Research,  
Govt. Dental College and Building,  
4<sup>th</sup> Floor, Saint George Hospital,  
Compound, Fort, Mumbai.
3. Dean,  
Govt. Medical College and  
Super Speciality Hospital,  
Nagpur.

**Respondents**

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Shri S.P.Palshikar, Ld. counsel for the applicant.  
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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

**Dated: - 4<sup>th</sup> August, 2023.**

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## **JUDGMENT**

Heard Shri S.P.Palshikar, learned counsel for the applicant and Shri A.M. Khadatkar, learned P.O. for the Respondents.

2. Case of the applicant in short is as under.

The applicant was appointed on 07.11.1984 on the post of Lecturer in Indira Gandhi Government Medical College and Hospital (IGMC) Nagpur. Thereafter, the applicant worked at various places. The applicant was subsequently posted as Professor. He stood retire on 30.11.2017 after the age of superannuation. The respondents have not paid the pension and pensionary benefits. Therefore, he approached to this Tribunal for the following reliefs-

- 1) *further be pleased to direct the respondent no.1 to issue No Objection Certificate in favour of the applicant for his retirement benefits;*
- 2) *grant any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.*

3. The O.A. is strongly opposed by the respondents. Respondent no.2 has filed reply and submitted that the applicant was appointed in the reserved category. The applicant belongs to Halba Caste, but the Caste Validity Committee rejected the Caste claim of the applicant. Therefore, he is not entitled for pension and other benefits.

4. During the Course of arguments, the learned counsel for the applicant has pointed out the Judgment in W.P.No.3140/2018 and the recent Judgment in W.P.No.547/2021, decided on 23.03.2023 and in W.P.No.5706/2021, decided on 05.04.2022.

5. There is no dispute that the applicant belongs to Halba Caste. He was appointed in the reserved category of Scheduled Tribe. There is no dispute that the applicant retired on 30.11.2017. The respondents have not taken any action during his service. The respondents have not created any supernumerary post as per the Government Resolution. Now, the respondents cannot say that he is not entitled for pensionary benefits. The Hon'ble Bombay High Court Bench at Nagpur in W.P.No.547/2021 in para 5,6 and 7 has held as under-

*5. We have heard the learned counsel for the parties and we have perused the documents on record. It is not in dispute that the petitioner entered in service on being appointed as Junior Clerk on a post reserved for the Scheduled Tribe category. It is further not in dispute that the petitioner's tribe claim was invalidated on 08.03.2010. However till his superannuation the petitioner was not placed on a supernumerary post. Consequently, he retired from the post of Storekeeper on which he was promoted on 24.05.2011 in the open category.*

*6. In these facts when the petitioner was not placed on a supernumerary post, there does not appear to be any justification for withholding the petitioner's retirement benefits. No*

*departmental proceedings were held against the petitioner prior to his superannuation on the basis of which he could be deprived of his pensionary benefits. By the order dated 03.07.2020 the petitioner is being paid provisional pension subject to finalization of his pension case. The impugned communication does not seek to deprive the petitioner of such retirement benefits. Thus as the petitioner has superannuated without being placed on a supernumerary post, there is no reason to withhold his pensionary benefits. In that view of the matter, the petitioner is entitled for the relief of grant of retirement benefits.*

*7. Accordingly the writ petition is disposed of by directing the respondents to finalize the petitioner's pension case within a period of three months from today and release such benefits to the petitioner in accordance with law.*

6. In W.P.No.5706/2021, the Hon'ble Bombay High Court Bench at Nagpur has held in para 5, 6 and 7 as under-

*5. We have heard the learned counsel for the parties and we have perused the documents on record. It is not in dispute that the petitioner entered in service on being appointed as Assistant Teacher on a post reserved for the Scheduled Tribe category. It is further not in dispute that the petitioner's tribe claim was invalidated on 30.12.2020. However till her retirement/superannuation the petitioner was not placed on a supernumerary post. Consequently, she retired from the post of Head Mistress on which she was promoted on 21.05.2007 in the open category.*

*6. In these facts when the petitioner was not placed on a supernumerary post when she was in service, there does not*

*appear to be any justification for withholding the petitioner's retirement benefits. No departmental proceedings were held against the petitioner prior to her retirement on the basis of which she could be deprived of her pensionary benefits. By the order dated 03.01.2018 the petitioner is being paid provisional pension subject to finalization of her pension case. The impugned communication seeks to deprive the petitioner of such retirement benefits without any justification. Thus as the petitioner has retired without being placed on a supernumerary post, there is no reason to withhold her pensionary benefits. In that view of the matter, the petitioner is entitled for the relief of grant of retirement benefits.*

*7. Accordingly the order dated 20.10.2021 passed by the respondent no.2 is set aside. The writ petition is allowed. The respondents are directed to release the petitioner's pension in accordance with law within a period of three months from today.*

7. The Hon'ble Bombay High Court has held that till the retirement of employee, the respondents have not taken any action for not submitting Caste Validity Certificate. Therefore, after retirement cannot say that he is not entitled for pension and pensionary benefits.

8. During the course of submission, the learned P.O. has submitted that the respondents have paid amount of G.P.F. and G.I.S. He has filed extract of payment dated 10.07.2019. It is marked Exhibit-X.

9. From the perusal of this extract of payment, it appears that only amounts of G.P.F. and G.I.S. are paid to the applicant on 22.10.2017 and on

18.07.2018. As per the submission of learned counsel for the applicant, the applicant is getting only provisional pension.

10. As per the above cited Judgment, the applicant is entitled for pension and pensionary benefits because no any action was taken by the respondents till the date of retirement. The applicant is retired on 30.11.2017 Caste Scrutiny Committee invalidated the caste claim of Scheduled Tribe on 07.09.2018. Therefore, it is clear that during the service of the applicant, no any decision was taken by the Caste Scrutiny Committee. The respondents have not taken any action to get the Caste Validity Certificate from the applicant. He was allowed to continue in service to till his retirement. Therefore, in view of the above cited Judgments, the following order is passed. Hence, the following order.

**ORDER**

1. The O.A. is allowed.
2. The respondents are directed to pay regular pension, gratuity and other pensionary benefits to the applicant within a period of three months from the date of receipt of this order.
3. No order as to costs.

(Justice M.G.Giratkar)  
Vice Chairman

Dated – 04/08/2023  
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 : 04/08/2023.  
Uploaded on : 11/08/2023.