

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 881/2018(S.B.)**

Dhanpal S/o Sadashiv Lokhande,  
Aged: 61 Years, Occ: Retired,  
R/o 295, Mhada Colony,  
Godhani (Railway),  
Dist.: Nagpur.

**Applicant.**

**Versus**

1. State of Maharashtra,  
through Secretary,  
Sports and Education Department,  
Mantralaya, Mumbai.
2. Chief Executive Officer,  
Zilla Parishad, Nagpur.
3. The Education Officer (Primary),  
Primary Education Department,  
Nagpur.
4. Shri Ashok Khade,  
Block Development Officer,  
Panchayat Samitee, Katol,  
Dist. : Nagpur.
5. Shri Promod Wankhede,  
Co-ordinator, Block Resource Centre,  
(BRC), Panchayat Samittee, Katol  
Dist.: Nagpur.

**Respondents**

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Shri Dhanpal Lokhande, applicant in person.  
Shri H.K.Pande, Ld. P.O. for the respondent no.1.  
Shri M.Shaikh, Ld. Counsel for the respondents 2, 3, 4 and 5.

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

**Dated: - 5<sup>th</sup> September, 2023.**

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### **JUDGMENT**

Heard Shri Dhanpal Lokhande, applicant in person, Shri H.K.Pande, learned P.O. for the Respondent no.1 and Shri M.Shaikh, Ld. Counsel for the respondents 2, 3, 4 and 5.

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

The applicant was working as Headmaster in Zilla Parishad, Middle School, Panchayat Samittee, Katol. Some complaints were made against the applicant and the departmental enquiry is initiated against the applicant. The applicant is now retired on superannuation in the month of October, 2015. The respondents are not paying pension and pensionary benefits to the applicant. The applicant is getting only provisional pension. Therefore, the applicant approached to this Tribunal for direction to the respondents to pay the all pensionary benefits and also regular pension.

3. The O.A. is opposed by the respondent nos.2 to 5. In the reply it is submitted that the applicant was charge sheeted for the misconduct of corruption. The departmental enquiry was initiated. The Departmental

Enquiry Officer has submitted his report to the disciplinary authority. Till date disciplinary authority has not taken any action. It is submitted that as per Rule 130 of Maharashtra Civil Services (Pension) Rules, 1982, Clauses 1 and 2, the applicant is entitled only for provisional pension. Hence, the O.A. is liable to be dismissed.

4. Applicant has submitted that the respondents be directed to pay the pension and other benefits.

5. As per Rule 130 (1) and (2) of the M.C.S., Pension Rules, 1982, the applicant is entitled for provisional pension. This Rule is very specific. As per Rule 130 of the M.C.S., Pension Rules 1982, regular pension and other pensionary benefits cannot be given during the pendency of departmental enquiry. The Division Bench of ***Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.3978/2018 in the case of Govind Trimbakrao Kanadkhedkar Vs. Chief Executive Officer, Zilla Parishad & Ors., decided on 08.01.2019*** has held in para no.3 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 cannot be granted.*

6. The Division Bench of ***Hon'ble Bombay High Court, Bench at Nagpur in the case of Parasram Gomaji Nasre Vs. State of Maharashtra & Ors. decided on 07.11.2017*** has held in para no. 6 as under:

*6. Rule 130 of the Maharashtra Civil Services (Pension) Rules, 1982, in terms, envisages only payment of provisional pension in such a situation. Rule 4 of the Maharashtra Civil Services (Commutation of Pension) Rules, 1984 disqualifies a Government servant from seeking commutation of fraction of his provisional pension during pendency of proceedings against him.*

7. The Division Bench of Bombay High Court Bench at Aurangabad and Nagpur have held that during the pendency of departmental enquiry, pensionary benefits cannot be given. Rule 130 of the Maharashtra Civil Services (Pension) Rules, 1982 is quoted in the said Judgment and it is held that the Rule itself is explanatory. Therefore, during the pendency of departmental enquiry, regular pension and other pensionary benefits cannot be given.

8. There is no dispute that final decision in the departmental enquiry against the applicant is not taken by the disciplinary Authority. The

applicant was / is at liberty to challenge the departmental enquiry. The relief prayed in this O.A. for direction to the respondents to pay regular pension and other pensionary benefits cannot be granted in view of Rule 130 of the Maharashtra Civil Services (Pension) Rules, 1982. Hence, the following order.

**ORDER**

1. The O.A. is dismissed.
2. No order as to costs.

(Justice M.G.Giratkar)  
Vice Chairman

Dated – 05/09/2023  
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 : 05/09/2023.  
Uploaded on : 11/09/2023.