

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.805/2016

DISTRICT: JALGAON

Firoz Kalekha Jamadar,
Age : 59 years, Occ : Retired,
R/o. Plot No.160/5, Wagh Nagar,
Bhushan Colony, Jalgaon,
Tq. & Dist. Jalgaon.

..APPLICANT

V/s.

1] The Collector Jalgaon,
Dist. Jalgaon.

2] District Supply Officer, Jalgaon,
Dist. Jalgaon.

3] Treasury Officer, Jalgaon,
Dist. Jalgaon.

...RESPONDENTS

APPEARANCE: Heard Shri V.B.Wagh learned Advocate
for the applicant.

Smt. Resha Deshmukh learned
Presenting Officer for respondents.

CORAM: Hon'ble Shri B. P. Patil, Member (J)

DATE : 06-06-2017

ORAL ORDER

Heard Shri V.B.Wagh learned Advocate for the applicant and Smt. Resha Deshmukh learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that applicant was serving as Naib Tahsildar and he was retired on 31-05-2015 on superannuation. He has submitted that after retirement, proposal to grant pension to the applicant was submitted by the respondent no.1 Collector, Jalgaon to the Accountant General, Mumbai (A.G. for short). Accordingly, pension has been sanctioned to him by pension payment order dated 14-08-2015, which is take on record and marked as document "X" for identification. Said Pension Payment Order has been sent to the Treasury Officer, Jalgaon but Treasury Officer, Jalgaon has not released pension to the applicant on the ground that necessary certificate as required under Rule 27(4) of the Maharashtra Civil Services (Pension) Rules, 1982 has not been issued by the respondent no.1. Therefore, he approached the respondent no.1 and filed the

representation dated 13-07-2016. On 10-08-2016, respondent no.1 Collector, Jalgaon had informed the applicant that he has called information from respondent no.2 and on receiving information he would arrange for issuance of certificate as required under Rule 27(4) of the MCS (Pension) Rules, 1982. Learned Advocate for the applicant has submitted that respondent no.1 and 2 have not issued certificate as required under Rule 27(4), and therefore, he prayed to direct the respondents to issue the certificate to the Treasury Officer, Jalgaon.

3. Learned P.O. on behalf of the respondents has submitted that departmental enquiry is pending against the applicant and Enquiry Officer has been appointed in the matter. Charge sheet has also been served on the applicant, and therefore, the certificate under Rule 27(4) has not been issued. She has submitted that as the charges against the applicant are serious in nature, no such certificate can be issued, and therefore, she prayed to dismiss the O.A.

4. On perusal of the documents on record, it reveals that the applicant was retired on superannuation on

31-05-2015 as Naib Tahsildar. Thereafter, his pension papers have been forwarded by the respondent nos.1 and 2 to the A.G. Mumbai. A.G. Mumbai has sanctioned pension vide pension payment order dated 14-08-2015. Thereafter, respondent no.3 has informed the applicant to produce certificate under Rule 27(4) of the MCS (Pension) Rules, 1982 (page 11) issued by the competent authority. Accordingly, the applicant had approached to the Collector, Jalgaon by filing the application dated 13-07-2016 (page 12-13). In reply to the said application, respondent no.1 Collector, Jalgaon has informed the applicant by his communication dated 10-08-2016 (page 14) that he would issue certificate as required under Rule 27(4) on receiving communication from respondent no.2. But the respondent no.1 has not issued certificate as required under Rule 27(4) of the MCS (Pension) Rules, 1982 till today.

5. Respondents by filing their short affidavit in reply informed the Tribunal that departmental enquiry is pending against the applicant, and therefore, no such certificate can be granted in favour of the applicant.

6. Rule 27 (4) of the MCS (Pension) Rules, 1982 reads as under:

“27. Right of Government to withhold or withdraw pension.

(4) In the case of a Government servant who has retired on attaining age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in rule 130 shall be sanctioned.”

7. On going through the said provision/s, it reveals that the said Rules state that provisional pension as provided under Rule 130 shall be sanctioned to the Government servant who has retired on attaining age of superannuation or otherwise and against whom any departmental enquiry or judicial proceedings are instituted or where departmental proceedings is continued under Sub Rule 2. Said rule does not provide for recovery of dues or for issuance of no dues certificate and it provides for grant of provisional pension to the

Government servant against whom departmental enquiry or judicial proceedings are instituted or pending. Respondent no.1 has not informed the Treasury Officer, Jalgaon about the information as provided in Rule 27(4) of the MCS (Pension) Rules, 1982, which is required for releasing pension to the applicant.

8. In these circumstances, it is necessary to direct the respondent no.1 to supply the necessary information in the form of certificate as provided under Rule 27(4) of the MCS (Pension) Rules, 1982 to the Treasury Officer within one month from the date of this order. Therefore, it will be just to allow the original application and to issue necessary direction to the respondent no.1 accordingly.

9. In view of above, O.A. is allowed and respondent no.1 is directed to issue necessary communication / certificate to the Treasury Officer, Jalgaon i.e. respondent no.3 in view of Rule 27(4) of the MCS (Pension) Rules, 1982 within one month from the date of this order. There shall be no order as to costs.

MEMBER (J)