

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.399/2016

DISTRICT – AURANGABAD

Dr. Pradip s/o Kaniram Rathod,
Age: 60 years, Occ : Retired,
R/o : 17, Vasant Nagar,
Near Sai Mandi, Jawahar Colony,
Aurangabad, Dist. Aurangabad. ...APPLICANT

V E R S U S

1. The State of Maharashtra,
(Through its Secretary,
Public Health Services Department,
Mantralaya, Mumbai.
2. The Director of Health Services,
Maharashtra State, Mumbai.
3. The Deputy Director of Health Services,
Nagpur Circle, Nagpur.
4. The Chief Executive Officer,
Zilla Parishad, Gadchiroli,
District Gadchiroli.
5. The District Health Officer,
Zilla Parishad, Gadchiroli.
6. The Accountant General-II,
Civil Lane, Nagpur. ...RESPONDENTS

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

:Smt. Deepali Deshpande, learned Presenting Officer (PO) for the respondents.

CORAM : Hon'ble Shri J.D.Kulkarni, Member (J)

DATE : 20th December, 2016

J U D G M E N T
[Delivered on 20th December, 2016]

Applicant Dr. Pradip Kaniram Rathod was working on the post of Assistant District Health Officer under the office of the respondent no.4 and 5 and stood retired on 30-06-2014. On 14-12-2011, enquiry committee submitted report against the applicant to the District Health Officer, Zilla Parishad, Nashik as regards the recruitment of Contract ANM Post. The applicant replied to the said committee and denied all the charges levelled against him. On 27-12-2011, Chief Executive Officer, Zilla Parishad, Nashik issued a memorandum of charges against the applicant. Chief Executive Officer then submitted his report for taking action against the applicant and also issued show cause notice. On 06-03-2012, respondent no.1 issued order whereby the applicant was kept under suspension and his headquarter was at Jalgaon. Applicant has challenged the said suspension order by filing O.A.No.795/2012. Respondent no.1 thereafter

revoked the order of suspension and posted the applicant as Assistant District Health Officer at Zilla Parishad, Gadchiroli. On 30-06-2014, the applicant got retired on superannuation.

2. Applicant had filed representations on 17-01-2014, 04-07-2014, 15-07-2014, 21-07-2014, 03-09-2014, 09-03-2015, 12-06-2015 and 23-06-2015 and requested the respondents to regularize his suspension period and to pay medical reimbursement bills and also to finalize pension. On 16-08-2014, respondent no.5 wrote a letter and recommended applicant's case. On 15-12-2014, respondent no.3 forwarded proposal to respondent no.2 regarding medical reimbursement bill but the same is not sanctioned till date. Applicant has, therefore, filed this O.A. and has prayed that respondent authorities be directed to release retiral benefits i.e. GIS, leave encashment, medical leave of 299 days, medical reimbursement bill, transfer TA bill, DCRG amount and commutation of pension. He is also claiming direction to respondent no.1 to regularize suspension period with effect from 22-03-2012 to 30-11-2012 and further direction to respondents to submit proposal for sanctioning pension.

3. Respondent nos.1 to 3 have filed affidavit in reply opposing claim of the applicant. It is stated that since departmental enquiry is proposed against the applicant 'no dues certificate' and 'no departmental enquiry certificate' was not issued. It is stated that the decision regarding departmental enquiry proposed against the applicant will be taken at the earliest and accordingly, necessary relevant certificates and directions will be issued. It is further stated that case for departmental enquiry will be scrutinized in the light of Rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982 and appropriate decision will be taken at the earliest.

4. Heard Shri V.B.Wagh learned Advocate for the applicant and Smt. Deepali Deshpande learned Presenting Officer (PO) for the respondents. Perused memo of O.A. affidavit/s in reply and various documents placed on record by the parties.

5. It is admitted fact on record that the applicant was kept under suspension on 06-03-2012 on the ground that enquiry was contemplated against the applicant. Suspension of the applicant was also revoked subsequently and the applicant has been reinstated in service. Thus, it seems that as on today, departmental enquiry is not pending against the applicant.

6. From reply affidavit it seems that respondents are contemplating or initiating departmental enquiry against the applicant under Rule 27 of the MCS (Pension) Rules, 1982. It is stated that appropriate decision will be taken at the earliest. It is material to note that allegations levelled against the applicant are relating to the period of 2011 and till today no enquiry was initiated. I am doubtful whether in the given circumstances even enquiry under Rule 27 of the MCS (Pension) Rules, 1982 can be initiated. In any case, respondents have not stated as to within how many days such enquiry will be initiated and completed. Applicant has already retired on 30-06-2014 and till today he has not received his legal dues, such as retiral benefits, medical reimbursement etc.

7. Learned Advocate for the applicant has placed reliance on the judgment delivered by Hon'ble the Apex Court in **Civil Appeal Nos.3018-21 of 1987 with a group of other C.As.** in the case of **Union of India etc. etc. V/s. K.V.Jankiraman, etc. etc.** Said judgment has been delivered on 27-08-1991. In the said case, it has been held that if charges against the employee are serious then only the employee can be suspended and if found innocent, such employee is entitled to all benefits, if he is otherwise entitled to. In the present

case, though earlier the applicant was kept under suspension, his suspension was revoked subsequently. Admittedly, no enquiry is pending against the applicant at present. Only enquiry which respondents can initiate is under rule 27 of the MCS (Pension) rules, 1982. In such circumstances, application can be disposed of with direction to the respondents. Hence, following order:

ORDER

- (i) O.A. is partly allowed.
- (ii) Respondents are directed to initiate and complete departmental enquiry, if any, as admissible under rule 27 of the MCS (Pension) Rules, 1982, if they so desire.
- (iii) Such enquiry shall be completed in all respect within 6 months from the date of this order.
- (iv) If enquiry is not completed within 6 months, the respondents shall release all the retiral benefits as claimed by the applicant in prayer clauses B, C and D.
- (v) In the circumstances, there shall be no order as to costs.

(J. D. Kulkarni)
MEMBER (J)

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