

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No.573 of 2020 (S.B.)

Vinayak Madhavrao Napte,
Aged 61 years, Occ. Retired Assistant Sub-Inspector,
R/o Vinayak Nagar, Ward No.3, Civil Lines,
Dist. Washim.

Applicant.

Versus

- (1) State of Maharashtra,
Through Its Secretary, Home Department,
Mantralaya, Mumbai-32.
- (2) The Superintendent of Police,
Office of Superintendent of Police,
Civil Lines, Washim.
- (3) Indian Audit and Accounts Department,
Through Its Senior Accounts Officer,
Office at Pension Wing, Old Building,
Post Box No.114, GPO, Civil Lines, Nagpur.

Respondents.

Shri O.Y. Kashid, Advocate for the applicant.

Shri S.A. Sainis, learned P.O. for respondents.

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

Dated :- 24/02/2025.

JUDGMENT

Heard Shri O.Y. Kashid, learned counsel for applicant and
Shri S.A. Sainis, learned P.O. for respondents.

2. The case of the applicant in short is as under -

The applicant is retired from service. The applicant was arrested for the offence punishable under the Prevention of Corruption Act. FIR was registered for the said offence on 10/08/2011. The applicant is prosecuted by the Anti-Corruption Bureau (ACB) by filing charge sheet before the Special Court at Washim. The applicant is already retired from service from the post of ASI w.e.f. 31/01/2017. The respondents are paying provisional pension. The applicant is not getting retiral benefits. Therefore, applicant has approached to this Tribunal for the following reliefs –

- “(11) (i) Allow the application and by appropriate order or direction, this Hon'ble Tribunal may be pleased to direct the respondents to release the retiral service benefits to the applicant which include the amount of gratuity, regular pension, the benefits of salary increment since 2011 till his retirement as well as the regular salary benefits for the period of suspension by treating the said period as regular service period for 6 years from the date of suspension till his reinstatement on 8/3/2016.*
- ii) Considering the age of the applicant, the respondent authority may be directed to release the benefits in terms of prayer clause (i) above within any specific period of time.”*

3. The O.A. is opposed by the respondents. It is submitted that the applicant is getting provisional pension. The respondents have paid the amount of GPF and GIS. Only amount of gratuity is withheld. The respondents have submitted that as per Rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982, the applicant is not entitled to get pensionary benefits.

4. Heard learned counsel for the applicant. As per his submission, no any departmental inquiry is initiated by the Department. The applicant is already retired in the year 2017. He is getting provisional pension. Therefore, the respondents be directed to grant regular pension and other pensionary benefits.

5. During the course of submission, the learned P.O. has vehemently argued and pointed out the Judgment of the 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, Nanded and Others, decided on 08/01/2019** and submitted that it is right of the Government to withheld the pension as per the rule 27 of the Maharashtra Civil Services (Pension) Rules,1982 (in short "Pension Rules").

6. There is no dispute that the applicant is getting provisional pension as per rule 130 of the Pension Rules. Rule 27 of the Pension Rules is very clear. As per this rule, it is the right of the Government to withdraw or withheld the pension and pensionary benefits during the pendency of judicial proceeding or departmental inquiry. The applicant is prosecuted for the offence punishable under the Prevention of Corruption Act. The said case is pending before the Court. It is not finally decided. The Hon'ble Bombay High Court, Bench at

Aurangabad in the case of **Govind Trimbakrao Kanadkhedkar Vs. Chief Executive Officer, Zilla Parishad, Nanded and Others** (cited *supra*) has held that it is for the concerned applicant to approach before the Court and get his case decided as early as possible. Rule 27 of the Pension Rules is very clear and therefore the respondents, i.e., employer / Government can withheld or withdraw the pension and pensionary benefits during the pendency of judicial proceeding or departmental enquiry. The said Judgment of Hon'ble Bombay High Court, Bench at Aurangabad is reproduced below –

“1. Mr. Bobade, learned counsel for the petitioner seeks relief of all pensionary benefits. According to the learned counsel, the petitioner stands retired on attaining the age of superannuation on 31.10.2017. The petitioner was placed under suspension in September-2016. On account of the fact that criminal case is filed against the petitioner, the departmental enquiry was not initiated against the petitioner. In view of that the learned counsel seeks regular pension with all retiral benefits.

2. We have heard the learned counsel for the respondents.

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.

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

5. The writ petition is disposed of. No costs.”

7. In view of the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the above cited Judgment, it is clear that during the pendency of judicial proceeding, the employee is not entitled to get pension and pensionary benefits. There is no dispute that the applicant is facing the criminal case for the offence punishable under Section 7 r/w Section 13 (d) of the Prevention of the Corruption Act. The said case is pending before the Court, therefore, in view of the rule 27 of the Pension Rules, the applicant is not entitled for regular pension and pensionary benefits. There is no dispute that the applicant is getting provisional pension as per rule 130 of the Pension Rules. As per the submission of respondents, the amount of GPF and GIS is already paid to the applicant, only amount of gratuity is withheld. Hence, in view of the above cited Judgment, the following order is passed -

ORDER

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

Dated :- 24/02/2025.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 24/02/2025.