

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.1131 of 2022 (D.B.)**

Madhusudan S/o Ruprao Khade,
Aged about 70 years, Occupation: Retired,
R/o Surekha Nagar, MIDC Road, Plot No.32, Malkapur, Akola,
Tahsil and District: Akola.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Animal Husbandry,
Mantralaya, Mumbai-32.
- 2) Commissioner of Animal Husbandary,
Maharashtra State, Aundh, Pune.
- 3) Regional Joint Commissioner,
Amravati Region, Amravati, Near Tahasil Office,
Amravati.
- 4) Accountant General-II,
Maharashtra State, Civil Lines, Nagpur.

Respondent.

Shri N.S. Warulkar, Advocate for the applicant.
Shri M.I. Khan, learned P.O. for respondent.

**Coram :- Hon'ble Shri Justice M.G. Giratkar, Vice Chairman and
Hon'ble Shri Nitin Gadre, Member (A).**

Dated :- 26/08/2024.

J U D G M E N T

Heard Shri N.S. Warulkar, learned counsel for the
applicant and Shri M.I. Khan, learned P.O. for the respondents.

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

The applicant was initially appointed as Veterinary Officer on 13/02/1976. He was promoted as Live stock development officer on 01/04/1981. The applicant was promoted as an Assistant Commissioner, Animal husbandry in the year 2005 and retired from the same post on 13/03/2010 after attaining the age of superannuation.

3. After the retirement, respondent no.1 issued a charge sheet for the alleged misconduct for the period from 2006 to 2008. Thereafter Inquiry Officer was appointed in the month of January,2012 and completed the inquiry and submitted inquiry report. After the inquiry report, respondent no.2 issued a communication for taking appropriate action on the inquiry report as per letter dated 21/06/2006. The applicant had given his explanation of the said letter. Thereafter, the respondents had issued a communication and proposed recovery of 3% from the pensionary benefits. It is submitted that whole inaction of the respondents not paying the pension and pensionary benefits is illegal. Therefore, the applicant has approached to this Tribunal for the following reliefs –

“(8) (1) drop the enquiry proceeding which is illegally started and conducted against the applicant and further quashed and set aside the Chargesheet dated 28/09/2011 issued by the respondent no. 1 (Annexure A-2) and further proceeding in that regard, in the interest of justice;

(2) further be pleased to direct the respondents to start regular pension of the applicant and accordingly direct the respondents to pay him difference and arrears of pensionary benefits from the date of his retirement i.e. 31/03/2010 to till its actual realization with 18% interest, in the interest of justice;

(3) direct the respondents to consider the period from 25/4/2006 to 28/2/2008 as a duty period and grant all the benefits accrued therefrom in the interest of justice.”

4. The O.A. is opposed by the respondents on the ground that applicant is found guilty in the departmental inquiry. The applicant is granted provisional pension and pensionary benefits.

5. During the course of submission, the learned counsel for applicant has pointed out the punishment order in the departmental inquiry, dated 04/09/2017. The learned P.O. has submitted that because of pendency of departmental inquiry the regular pension is not granted to the applicant.

6. There is nothing on record to show that the order of punishment dated 04/09/2017 is challenged by the applicant. The relief claimed in the O.A. is in respect of challenging the departmental inquiry and grant of regular pension. The applicant has not challenged the punishment order though he was / is well aware about the punishment order dated 04/09/2017.

7. The learned counsel for applicant made a statement that the applicant has accepted the punishment order. Even as per law, it

is deemed to be accepted because the applicant has not challenged the punishment order dated 04/09/2017 by which deduction of 3% per month amount for one year from his pension was directed in the punishment order.

8. Now there is nothing pending against the applicant to stop his regular pension. In respect of prayer clause no.1, it cannot be granted, because, the inquiry was conducted and the applicant has not challenged the punishment order. In respect of prayer clause no.2 the applicant has accepted the punishment order. Now that punishment is over and hence the applicant is entitled for regular pension. Hence, we proceed to pass the following order –

ORDER

(i) The O.A. is partly allowed.

(ii) The respondents are directed to pay regular pension to the applicant within a period of three months from the date of receipt of this order.

(iii) No order as to costs.

(Nitin Gadre)
Member(A).

(Justice M.G.Giratkar)
Vice Chairman.

Dated :- 26/08/2024.

dnk.

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 and Member (A).

Judgment signed on : 26/08/2024.