

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 443 of 2023 (S.B.)**

Dr. Ramdas S/o Shyamrao Kumbhare,
aged about 77 years, Occ: Medical Practitioner,
r/o of Hospital Ward, Chandrapur.
Tah. & Dist. Chandrapur (MS).

Applicant.

Versus

1. State of Maharashtra Through it Secretary,
Public Health Department, Mantralaya, Mumbai.
2. Director of Health Services, Maharashtra State,
Mumbai.
3. Deputy Director of Health Services,
Nagpur Circle, Mata Kacheri, Nagpur, Tah. & Dist. Nagpur
4. Civil Surgeon,
General Hospital, Chandrapur,
Tah. & Dist. Chandrapur.

Respondents.

**S/Shri R.D. Dandwate, R.V.Vyawhare, Advs. for the applicant.
Smt. S.R. Khobragade, learned P.O. for respondents.**

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

Dated :- 15/10/2024.

J U D G M E N T

Heard Shri R.D. Dandwate, learned counsel for the
applicant and Smt. S.R. Khobragade, learned P.O. for the
respondents.

2. The respondents have not filed any reply though several chances were granted to the respondents to file reply. As per the order dated 07/05/2024 this O.A. is fixed for final hearing. Today also reply is not filed. Hence, the O.A. is heard and decided finally.

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

The applicant joined as a Class-III Officer in the Maharashtra Medical and Health Services on 20/10/1972. The applicant was regularized from 15/04/1975. The applicant had given notice for Voluntary Retirement (V.Rs.). That was not accepted by the respondents. Therefore, the applicant had filed O.A.No.260/2004. That O.A. was decided on 20/07/2015. The respondents were given following directions –

“(16) In the result, O.A. stands disposed of in the following terms:

(i) It is declared that under the proviso to Rule 66 (2) of the Pension Rules, 1982, notice of voluntary retirement given by the applicant becomes effective from 9.12.2002.

(ii) The respondents shall calculate the period of qualifying service of the applicant after excluding the period of unauthorized absence from 16.5.1989 to 20.2.1994 and from 21.12.1997 to 24.9.2001 and shall fix his pension case accordingly.

(iii) The respondents shall ensure that pension, gratuity and all the retiral benefits are paid to the applicant within four months from the date of passing of this order. In default, the amount remained unpaid shall carry interest at the rate of 12% p.a. till the date of its payment.

(iv) Registrar to send copy of this order to the Principal Secretary, Department of Public Health, Govt. of Maharashtra, Mantralaya, Mumbai.”

4. It is submitted that the respondents have not taken into consideration the services of the applicant w.e.f. 20/10/1972 for the purpose of calculation of pension and other pensionary benefits. The respondents are not complying the order of this Tribunal. Hence, the applicant approached to this Tribunal for the following reliefs –

“10. Reliefs Sought:

10.1. Order the Respondents to fix the Pension of Applicant treating his date of appointment to be 20.10.1972 and release pension and other pensionary benefits, including gratuity, commutation of pension, GPF, GIS amount, leave encashment etc., accordingly, with interest at the rate of eighteen per cent per annum with effect from the dates on which the respective amounts became due till realization of the entire dues;

5. During the course of submission the learned counsel for applicant has pointed out the documents filed on record. As per his submission specific order was passed by this Tribunal on 20/07/2015. Thereafter, Contempt Petition No.16/2017 was filed. The said Contempt Petition was disposed of as per the order dated 16/01/2020. This Tribunal has passed the following order –

“ Heard M.I. Dhattrak, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

2. The learned counsel for the applicant submitted that the respondents have considered service of the applicant w.e.f. 15/4/1975 and came to the conclusion that the applicant has not completed the qualifying service of 20

years, therefore, he is not eligible for full pension. The learned counsel for the applicant submitted that in fact he was appointed in service in the year 1972, but his previous service till 15/4/1975 was not taken into account, therefore, the impugned decision taken by the respondents is illegal and the applicant is intending to make representation to the respondents to consider his previous service as continuous service and for this reason, he is intending to withdraw the Contempt Petition. The applicant is permitted to withdraw the Contempt Petition. Liberty is given to him to make fresh representation to the respondents. The respondents to decide the representation within eight weeks from the date of its receipt. No order as to costs.”

6. The applicant was permitted to withdraw the Contempt Petition with liberty to make fresh representation to the respondents. The respondents were directed to decide the representation within 8 weeks. It appears that the applicant has made several representations. Notice was also sent by his counsel, but the respondents have not paid any heed. They have not complied the order of this Tribunal. Therefore, the applicant has filed the present O.A.

7. There is no dispute that the applicant was appointed on 20/10/1972. He was working as a Medical Officer since 20/10/1972. He was absent for some period and therefore this Tribunal directed the respondents to calculate the period of qualifying service after excluding the absent period. The respondent have not taken into

consideration the services of the applicant w.e.f. 20/10/1972, while fixing the pension.

8. The learned counsel for applicant has pointed out rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982. As per rule 30 of the Maharashtra Civil Services (Pension) Rules, at the time of calculation of pension / retirement, temporary service shall be taken into consideration provided that he shall be permanent at the time of retirement. The applicant was permanent when he applied for V.Rs. His services from 20/10/1972 was to be considered by the respondents as per rule 30 of the Maharashtra Civil Services (Pension) Rules, but it is not taken into consideration. The respondents have also not complied the order of this Tribunal in O.A.No.260/2004. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to fix the pension of the applicant by taking into consideration of his services w.e.f. 20/10/1972 and pay all the pension and pensionary benefits taking into consideration the order passed by this Tribunal in O.A. No.260/2004, dated 20/07/2015.

(iii) The respondents are directed to pay interest as per Rules 129-A and 129-B of the Maharashtra Civil Services (Pension) Rules.

(iv) The respondents are directed to comply the order within a period of three months from the date of receipt of this Tribunal.

(v) No order as to costs.

Dated :- 15/10/2024.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 15/10/2024.