

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 893 of 2019 (S.B.)**

Arun S/o Gajananrao Mule,
Age 72 years, Plot No.90, Vijayanand, Narendra Nagar,
NAGPUR-15.

Applicant.

Versus

1) State of Maharashtra,
through its Secretary, Agriculture Department,
Mantralaya, MUMBAI, 32.

2) The Commissioner of Agriculture M.S.,
PUNE.01

Respondents.

Shri Bharat Kulkarni, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondents.

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

Dated :- 09/07/2024.

J U D G M E N T

Heard Shri Bharat, learned counsel for the applicant and
Shri S.A. Sainis, learned P.O. for the respondents.

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

The applicant is retired from the post of Stenographer.
Respondent no.2 issued punishment order dated 7/10/2017 on the
ground that the applicant was unauthorisedly absent from duty from
13/4/1984 to 31/12/2005 till the date of superannuation and therefore

the applicant is not entitled for pension. It is the contention of the applicant that his post was not filled and therefore there was no interruption of service. Hence, the order passed by respondents dated 15/6/2019 is liable to be quashed and set aside. Therefore, he filed present O.A. for the following reliefs –

“(11) [I.] Quash and set aside the impugned punishment order dated 7/10/2017 by R. No.2 & dated 15/06/2019 by R. No.1 rejecting appeal being illegal with bias at Annexure No. 1.

[II.] Quash and set aside the enquiry report as the same is belated after 10 years from the date of events of 1984. (Mahadevan case reported in AIR 2005(6) SCC 636,)

[III.] The DE report is illegal and bias and to be quashed.

[IV.] Direct the R. No.1 & 2 to sanction the leave considering for counting for pension.

[V.] Direct the R. No.1 & 2 to grant the pension to applicant with arrears and interest.”

3. The O.A. is strongly opposed by the respondents. It is submitted that the applicant was continuously absent for about 21 years and therefore the applicant is not eligible to get the pension. There was interruption in service. Hence, the O.A. is liable to be dismissed.

4. During the course of submission, learned counsel for applicant has pointed out Rule 47 of Maharashtra Civil Services (Pension) Rules, 1982. Rule 47 is reproduced below –

“47. Effect of interruption in service

(1) An interruption in the service of a Government servant entails forfeiture of his past service, except in the following cases:-

- (a) authorised leave of absence;*
 - (b) unauthorised absence in continuation of authorised leave of absence so long as the post held by the absentee is not filled substantively;*
 - (c) suspension, where it is immediately followed by reinstatement, whether in the same or a different post, or where the Government servant dies or is permitted to retire or is retired on attaining the age of superannuation while under suspension;*
 - (d) transfer to non-qualifying service in an establishment under the control of the Government if such transfer has been ordered by a competent authority in the public interest;*
 - (e) joining time while on transfer from one post to another.*
- (2) Notwithstanding anything contained in sub-rule (1), the appointing authority may, by order, commute [retrospectively] the periods of absence without leave as extraordinary leave."*

5. It is in respect of effect of interruption in service, it is not in respect of pension. The applicant was unauthorisedly absent for about 21 years. The applicant was not in need of service and therefore it appears that the applicant is also not in need of pension. The applicant was not a punctual employee. The qualifying service is laid down in the Maharashtra Civil Services (Pension) Rules to get the pension. The applicant has not completed qualifying service to get the pension. Though the post is not filled, that does not mean that he has completed the required period to get the pension. Though the respondents have not taken any decision of dismissal etc., but it appears that it is a serious misconduct committed by the applicant. The applicant was working as a Stenographer and he remained absent for about 21 years. In such situation, the applicant is not entitled for any relief. Hence, the following order –

ORDER

(i) The O.A. is dismissed.

(ii) No order as to costs.

Dated :- 09/07/2024.

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 : 09/07/2024.