

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.36 of 2024**

Smt. Uma Jamnalal Joshi,  
aged 59 years, Occ. Retired, R/o Ramkrushna Nagar,  
Near Regional Workshop, Shraddha No.3, Kaulkhed,  
Akola, Tq. & Dist. Akola.

**Applicant.****Versus**

- 1) The State of Maharashtra,  
Through Its Secretary, Social Welfare Department,  
Mantralaya, Mumbai-32.
- 2) The Commissioner,  
Social Welfare, Having its Office, 3 Church Road,  
Maharashtra State, Pune - 411001.
- 3) The Regional Deputy Commissioner,  
Social Welfare Division, Having Its Office at Samaji Nyay Bhavan,  
Near Commissioner of Police Office, Amravati.
- 4) The Assistant Commissioner,  
Social Welfare, Having Its office, 2nd Floor,  
Administrative Building, Near Police Headquarter,  
Akola, Dist. Akola.

**Respondents.**


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**Shri S.P. Palshikar, Advocate for applicant.**

**Shri V.A. Kulkarni, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri M.A. Lovekar,  
Member (J).**

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**Date of Reserving for Judgment : 19<sup>th</sup> August, 2024.**

**Date of Pronouncement of Judgment : 2<sup>nd</sup> September, 2024.**

**JUDGMENT**

**(Delivered on this 2<sup>nd</sup> day of September, 2024)**

Heard Shri S.P. Palshikar, learned counsel for the  
applicant and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The applicant retired on superannuation on 30/04/2023. Only amount of GPF, GIS and Provisional Pension (till October, 2023) was released. It is the grievance of the applicant that till his retirement, at no point of time, departmental inquiry was either contemplated or pending against her, but her representations to release her entire retiral benefits still went unheeded. The applicant is claiming following principal reliefs –

- i) *quash and set aside communications dated 26/04/2023 and 28/04/2023 to the effect "भविष्यात शासकीय वसुली येणे / बाकी निघाल्यास ती त्यांना देय असलेल्या सेवानिवृत्ती लाभाच्या रकमेतुन वसुल करण्याच्या अटीच्या अधिन राहून तसेच विभागीय चौकशी प्रस्तावित / प्रलंबीत असल्याने विभागीय चौकशीच्या अंतीम निर्णयाचे अधिन राहून" as illegal, bad in law;*
- ii) *further be pleased to direct the respondents to release (1) Gratuity, (2) Leave Encashment, (3) Regular Pension & (4) Provisional Pension from November, 2023 till date, by directing them to do so within stipulated period.*

Hence, this O.A.

3. To her reply respondent no.4 has annexed letter dated 18/09/2023 (Annex-R-1) written by respondent no.2 to respondent no.1 which inter alia states –

“सदर कालावधीत कार्यभार सांभाळणाऱ्या कर्मचा-यांचा कार्यकाळ

अ.क्र.	कर्मचाऱ्याचे नाव	कार्यकाळ (पासून-पर्यंत)	
१.	श्रीम. यु. जे. जोशी, सकनि	२९.११.२०१३	आजतागायत. (सद्यस्थिती दि.३०.४.२०२३ रोजी सेवानिवृत्त)

संबंधीत अधिकारी/कर्मचारी यांनी योजना राबवितांना शासन नियमाच्या अटी व शर्तीचे पालन करणे त्यांचे कर्तव्य होते. तथापि त्यांचेकडून कर्तव्यात कसूर झाल्याने त्यांनी महाराष्ट्र नागरी सेवा (वर्तणूक) नियम १९७९ नियम-३ (एक दोन तीन) चे उल्लंघन केले असल्याने त्यांचे विरुद्ध महाराष्ट्र नागरी सेवा (शिस्त व अपिल) नियम-१२ प्रमाणे कार्यवाही करणे आवश्यक आहे. तसेच श्रीम. उमा जोशी हया दि. ३०.४.२०२३ रोजी नियत वयोमानानुसार शासन सेवेतून सेवा निवृत्त झाले असल्याने त्यांचे विरुद्ध शिस्त भंगाची कारवाई शासन स्तरावरून करण्यासाठी शिफारस करण्यात येत आहे सोबत चौकशी अहवाल. ”

Charge sheet dated 09/01/2024 issued to the applicant is at Annex-R-2

4. Stand of respondent no.2 is that while implementing Karmveer Dadasaheb Gaikwad Swabhimani and Sablikaran Yojana the applicant had disregarded guidelines, complaints dated 31/10/2022 and 09/01/2023 were received against her, these complaints were verified, a Committee was formed to look into the same, the Committee concluded in its report that irregularities were committed by the applicant, respondent no.2 forwarded it to respondent no.1, the applicant was then served with a charge sheet dated 09/01/2024, the period covered thereunder was from 29/11/2013 to 30/04/2023, thus the departmental inquiry was initiated as per Rule-27 (2) (b) (ii) of the Maharashtra Civil Services (Pension) Rules, 1982 and as per Rules 27 (4) and 130 of the Maharashtra Civil

Services (Pension) Rules, 1982 provisional pension is being paid to the applicant.

5. Principal relief claimed in the O.A. is to direct the respondents to release all the remaining retiral benefits. Admittedly, departmental inquiry is pending against the applicant. The applicant seeks to rely on the Judgment of this Bench dated 01/08/2023 in O.A. 1161/2021. In this case it was observed –

*“The impugned order dated 25/11/2020 shows that the incident is of the year of 2009-2010. The applicant is retired on 30/11/2020. The impugned communication is dated 25/11/2020 and the charge sheet was issued against the applicant on 08/03/2022. That charge sheet was quashed and set aside by this Tribunal on the ground that as per the Rule 27 (2) (B) of the Maharashtra Civil Services (Pension) Rules, 1982, initiating the departmental inquiry in respect of incident which was occurred four years prior to the retirement is not legal and proper and therefore this Tribunal has allowed the O.A.No.318/2022 and quashed and set aside the charge sheet dated 08/03/2022. Now there is no inquiry pending against the applicant.*

In the instant case legality of departmental inquiry is not challenged. Therefore, it would not be appropriate to make observations on this point. In the facts and circumstances of the case pendency of departmental inquiry and Rule 27 (4) of the Maharashtra Civil Services (Pension) Rules, 1982 which reads as under, will suffice to conclude that no relief can be granted to the applicant –

**27. Right of Government to withhold or withdraw pension**

(1) X X X

(2) X X X

(3) X X X

(4) *In the case of a Government servant who has retired on attaining the age of Superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in rule 130 shall be sanctioned.*

For the reasons discussed hereinabove the O.A. is dismissed with no order as to costs.

**(M.A.Lovekar)**  
**Member (J).**

**Dated** :- 02/09/2024.

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 Member (J).

Judgment signed on : 02/09/2024.