

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.465 OF 2024

**DISTRICT : MUMBAI
SUBJECT : RETIREMENT DUES**

Shri Sunil Maruti Chavan,)
Aged 59 Years, Occ. Retired as Administrative)
Officer from Government Medical College,)
At Alibag, Dist. Raigad, R/o. Sanskar CHS,)
Flat No.126/D-1, Near St. Rock School, Gorai-2)
Boriwali (W), Mumbai-91.)... **Applicant**

Versus

- 1) The Commissioner,)
Medical Education Department, 4th Floor,)
St. George's Hospital Campus, D-Mello Marg,)
New Mantralaya, Mumbai-01.)
- 2) The Dean,)
Sir J.J. Group of Hospitals and)
Grant Government Medical College,)
Byculla, Mumbai-8.)
- 3) The State of Maharashtra,)
Through Principal Secretary,)
Medical Education and Drugs Department,)
9th Floor, G.T. Hospital Campus, L.T. Marg,)
New Mantralaya, Mumbai-01.)...**Respondents**

Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant.

Shri Deepak R. Patil, learned Presenting Officer for the Respondents.

CORAM : A.M. KULKARNI, MEMBER (A)

RESERVED ON : 17.12.2024.

PRONOUNCED ON : 20.12.2024.

JUDGMENT

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Shri D.R. Patil, learned Presenting Officer for the Respondents.
2. The Applicant was serving as Administrative Officer at Government Medical College, Alibag, District Raigad till his superannuation on 28.02.2023. However, the Applicant has not been paid Pension and the Pensionary benefits though there appear to be no apparent reasons for the non-payment.
3. In the instant O.A. the Applicant prays for the following :-
 - a) Respondents be directed to pay retirement dues such as Regular Pension, Gratuity, commutation of 1/3rd pension alongwith interest at 8% per annum till the realization from due date and all consequential service benefits.
 - b) Respondent No.2 be strongly directed to immediately issue 'No Due and No Departmental Enquiry Certificate' in favour of the petitioner in the light of 'No Objection Certificate' given on 20.10.2022 by various subordinate authorities working under the Respondent No.2. If Respondent No.2 fails, then Respondent No.1 may be directed to issue the 'No Objection Certificate'.
 - c) Respondent may be directed to release Gratuity, and Regular Pension as sanctioned by the Accountant General (AE-1), Mumbai on 29.02.2022.
 - d) The Applicant prays for Interim Relief in the form of direction to Respondent No.1 & Respondent No.2 to immediately issue the 'No Objection Certificate' for 'No Due and No Departmental Enquiry Certificate' in the favour of the petitioner and further to make the necessary payment due to the petitioner on due of his retirement on 28.02.2023.
- 4) The learned Advocate for Applicant submitted that the Applicant stood retired on 28.02.2023 (A.N.) and there was no departmental action proposed or contemplated including any Show Cause Notice etc. issued to the Applicant on the date of his retirement. Learned Advocate for

Applicant has already drawn attention to Pension Payment Authority issued on 29.09.2022 by the office of 'Principal AG (A & E)-1, Mumbai and the fact that the sanctioned pension of Rs.31,600/- (Rupees Thirty One Thousand Six Hundred Only) has never been paid to the Applicant since the date of his retirement for want of 'No Due and No Departmental Enquiry Certificate' from Dean, Sir J.J. Group of Hospitals, Mumbai.

5) Learned Advocate further submits that the provisional pension also has been paid only upto Feb-2024 to the Applicant.

6) As directed earlier by the Tribunal Shri Hemant Pawar who is the Chief Administrative Officer in the office of Director, Medical Education was present before this Court on the last date of hearing i.e. on 17.12.2024. Shri Hemant Pawar concurred with the contention of the learned Advocate for the Applicant about the non-payment of pension and pensionary benefits of the Applicant.

7) The Learned Advocate for Applicant submits that 'Rule 27' of 'The Maharashtra Civil Services (Pension) Rules, 1982' specifies the circumstances in which the Government Authority has right to withhold pension and retirement benefits and payment to the retiree. He further wishes to rely on Para 20 of the Judgment of Hon'ble Bombay High Court, Nagpur bench in **Narendra Kumbhare Vs. The Union of India & Ors. (Writ Petition No. 2539/2021)** which is as under:-

"20. No departmental proceedings were held against the petitioner prior to his superannuation on the basis of which he could be deprived of his pensionary benefits. The impugned communication also does not speak of depriving the petitioner to such retiral benefits. Thus, as the petitioner has superannuated without being placed on supernumerary post, there is no reason to withhold his pensionary benefits. In that view of the matter, the petitioner is entitled for the relief of grant of retirement benefits. Accordingly, the writ petition is allowed by directing the respondents to finalize the pension case of the petitioner within a period of two months from today and release such benefits to the petitioner in accordance with law."

8) The learned Advocate for Applicant further relied on Paragraphs 2 & 14 of the Judgment of MAT, Mumbai in **Nitin Laxmikant Thade Vs. The State of Maharashtra & Ors. (O.A.No.313 of 2020)** which are as under:-

“2. The Applicant stands retired on 31.08.2018 as Project Director, Zilla Parishad, Satara and after retirement provisional Pension, General Provident Fund (G.P.F.) and Group Insurance Scheme (G.I.S.) was granted. However, regular Pension, Leave Encashment and Gratuity have been withheld. Since the Applicant is deprived of getting these benefits for more than three years period and yet not released despite representations made by him ultimately he has filed the present O.A. for direction to the Respondents to release regular Pension, Gratuity and Leave Encashment.”

“14. The totality of aforesaid discussion leads me to sum-up that withholding of Gratuity, Leave Encashment and regular Pension is totally unsustainable in law. Respondents could not have withhold these benefits on the ground of initiation of D.E. in future. D.E. initiated by order dated 14.06.2021 will take its own course as may be permissible in law but that can't be the ground to withhold retiral benefits. Hence, the following order.”

9) Learned P.O. has produced the copy of the letter dated 13.12.2024 written by the Commissioner of Medical Education, Research & Ayush addressed to Principal Secretary, Medical Education and Drugs Department, Mantralaya, Mumbai asking for 'No Due and No Departmental Enquiry Certificate' in favour of the Applicant. This letter mentions about some enquiry pending against the Applicant which was informed to the Applicant vide letter dated 22.03.2024 after over a year of his retirement and the letter asked for further appropriate orders from the Government.

10) In the light of rulings relied upon by the learned Advocate for Applicant, it is clear that the dues and the pension related benefits need to be accrued to the Applicant without further loss of time, as he has suffered enough already.

11) Hence, I pass the following Order:

ORDER

- i) Original Application No.465/2024 is Allowed.
- ii) Respondents are directed to issue 'No Due and No Departmental Enquiry Certificate' in favour of the Applicant forthwith and to grant the retirement dues such as Regular Pension, Gratuity, commutation of 1/3rd pension alongwith interest at 8% per annum till the realization from due date and all consequential service benefits as prayed for.
- iii) Respondents to ensure the compliance of the above order within a period of 'One Month' from the date of this order.
- iv) No Order as to Costs.

Sd/-
(A.M. Kulkarni)
Member (A)

Place: Mumbai
Date: 20.12.2024
Dictation taken by: N.M. Naik.

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