

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO. 1062 OF 2019

DISTRICT: Ratnagiri

Dr. Baban Tukaram Karavekar)	
Age – 61 years, Retired as Medical Officer from)	
Primary Health Centre, Nayari, Tal.Sangameshwar,)	
Dist. Ratnagiri,)	
R/o. A/P Kond Aasurde, Tal. Sangameshwar,)	
Dist. Ratnagiri.)Applicant

Versus

- | | | |
|---|---|------------------------|
| 1. State of Maharashtra, |) | |
| Through Additional Chief Secretary, |) | |
| Public Health Department, |) | |
| Mantralaya, Mumbai 400 032. |) | |
| 2. The Chief Executive Officer, Zilla Parishad, |) | |
| Sindhudurg. |) | ...Respondents. |

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

Shri A. J. Chougule, learned Presenting Officer for the Respondents.

CORAM : SHRI A.P. KURHEKAR, MEMBER (J)

: 09.02.2021.

DATE

J U D G M E N T

This Original Application has been filed for direction to Respondents to release retirement benefits which were withheld for a long time despite retirement of the Applicant on 31.05.2018.

2. In Original Application, the Applicant has prominently raised grievance for delay in completion of Departmental Enquiry (D.E.) despite specific

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direction in O.A.No.628/2010 decided on 22.11.2010. That O.A. was filed challenging the suspension and it was disposed of with direction to complete the disciplinary inquiry within a period of two months from the date of order and failing to which suspension shall stand revoked without any further reference to the Tribunal.

3. As inquiry was not completed within two months, the suspension was deemed revoked and he was reinstated in service. Thereafter, he retired on 31.05.2018 but till that date, D.E. was not completed.

4. It is on the above background, the Applicant has filed present Original Application raising grievances of delay in completion of D.E. and non compliance of the order passed by the Tribunal in O.A.No.628/2010.

5. When such inordinate delay and total disregard to the order passed by the Tribunal has been noticed, the Tribunal passed detailed order on 09.12.2019 directing the Principal Secretary, Public Health Department to cause inquiry as to who are responsible for not completing D.E. and to take appropriate action.

6. In pursuance of the order passed by the Tribunal, Dr. Pradeep Vyas, Principal Secretary has filed Affidavit (page No.94 to 96 of PB) stating that inquiry report is already received on 17.01.2020 and it is in scrutiny to find out who is responsible for delay. In affidavit, he stated that various officers are responsible for causing delay but *prima-facie* it is difficult to pin out and attribute the delay on a single individual. This is nothing but lame excuse and responsibility needs to be fixed since there is total disregard to the order of Tribunal and total negligence is writ at large.

7. Material to note that simultaneously the Applicant has also challenged initiation of D.E. by filing O.A. No.15/2020 before the Division Bench of this Tribunal and prayed to quash the charge sheet dated 21.05.2010. The

Division Bench by order dated 18.02.2020, granted interim relief staying further continuation of proceeding in D.E. in view of nine years delay in completion of D.E. despite order passed by the Tribunal in O.A.No.628/2010 by order dated 22.11.2010.

8. Thus, the position now emerges that because of stay further proceeding in D.E. are held up.
9. Needless to mention unless the D.E. is concluded, the Applicant is not entitled to Gratuity and Leave Encashment. Admittedly, rest of the retirement benefits are released including Provisional Pension.
10. In view of above, there is no propriety to continue this Original Application as further action needs to be taken only after the decision in O.A.No.15/2020 is subjudice before the Division Bench of the Tribunal
11. Learned Counsel for the Applicant however raised grievance that the Applicant is not getting Provisional Pension as per 7th Pay Commission and to that extent, the directions be issued.
12. Shri A. J. Chougule, learned Presenting Officer for the Respondents submits that necessary steps will be taken to revise the pension in terms of 7th Pay Commission recommendations.
13. Respondent No.2- Chief Executive Officer, Z.P. Sindhudurg is required to refix the pension in terms of 7th Pay Commission and then grant Provisional Pension till final decision in D.E. or in O.A.No.15/2020.
14. In view of above, Original Application is disposed of with following directions:-
 - (A) Respondent No.2 is directed to refix the Provisional Pension of the Applicant in terms of 7th Pay Commission as per his entitlement and shall pass appropriate order within two months from today.

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(B) Principal Secretary, Public Health Department, Government of Maharashtra is also directed to cause inquiry in the matter of delay in completion of D.E. and to fix the responsibility to take further appropriate action within three months from today.

(C) Compliance report be submitted to the Tribunal without fail.

(D) The copy of order be forwarded to Respondent No.1 as well as Respondent No.2 for necessary compliance.

15. Original Application is accordingly disposed of with no order as to costs.

Sd/-

(A.P. KURHEKAR)
Member(J)

Place : Mumbai
Date : 09.02.2021
Dictation taken by : V.S. Mane
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