

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.287 OF 2017

DISTRICT : SINDHUDURG


Shri Krushna Vinayak Sawant.)
Age : 59 Yrs, Retired Forester, Office of)
Range Forest Office, Kankavli, District)
Sindhudurg and residing at Post Janvali,)
Taluka Kankavali, Dist : Sindhudurg.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Principal Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai - 400 032.)
2. Chief Conservator of Forest (T),)
Kolhapur, Near Post Office,)
Tarabai Park, Kolhapur 416 003.)
3. Dy. Conservator of Forest.)
Sawantwadi Forest Division,)
Sindhudurg.)
4. Accountant General.)
Maharshi Karve Road, Mumbai.)...**Respondents**

Mr. M.D. Lonkar, Advocate for Applicant.

Mrs. A.B. Kololgi, Presenting Officer for Respondents.

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P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 04.05.2017

JUDGMENT

1. This Original Application (OA) admits to its disposal at this stage itself although even the Affidavit-in-reply has not been filed by the Respondents. The justification for this course of action shall become clear as the discussion progresses. The Applicant and one other colleague of the Applicant earlier brought 2 OAs bearing Nos.340 and 341/2016. We are here concerned only with Applicant Mr. K.B. Sawant whose OA was OA 340/2016. On 26.9.1996, I disposed of those two OAs by making the following order.

“These two OAs admit to their disposal by this common Judgment for which both the sides have given consent.

The Applicants in both these OAs came to be placed under suspension pending D.E. and it seems that the alleged delinquency related to suffering the cutting of trees. Both the Applicants were working as Forester and Forest Guard respectively. In so far as Shri K.V. Sawant in OA 340/2016 is concerned, he has retired on superannuation while still under suspension. The Applicant Shri D.G. Pilankar in OA 341/2016 came to be reinstated on 9th August,



2016. But as indicated above, the DE against both the Applicants is pending.

As indicated hereinabove, both these OAs can be disposed of with directions. It is common ground that even under the normal circumstances an outer time limit for completion of the Des in every respect is six months from the service of the charge-sheet. In my opinion, even as the charge-sheet was served in April, 2016, a period of six months from today can be granted, but making it very clear that if the DE is not completed within this period of six months which is more than sufficient, the charge-sheet against both the Applicants shall stand quashed and they shall stand exonerated from the DE. These two OAs are accordingly disposed of with a direction that the pending DEs against the Applicants be completed in every respect including passing of the final order within six months from today and in the event, this time limit expires, the charge-sheets shall stand quashed and set aside the and Applicants shall stand exonerated. No order as to costs."

2. It must have become clear that at that point in time, the DE was pending against both these Applicants including the sole Applicant herein. I laid down an outer time limit for disposal of the pending DE and made it clear as must have been revealed by the above extract that, if the DE was not completed within that period of six months (by 26th March, 2017), the charge-sheet against those Applicants would stand quashed and they shall stand exonerated from the DE. I further made it clear that the DE should be completed in "every respect including passing of the final order within six months" and I again



made it clear that the effect of non-compliance would be exoneration of the Applicant.

3. I have perused the record and proceedings and heard Mr. M.D. Lonkar, the learned Advocate for the Applicant and Mrs. A.B. Kololgi, the learned Presenting Officer (PO) for the Respondents.

4. The Applicant in this OA has set out the facts, most of which must have become clear from the above discussion and sought the payment of gratuity, commutation of pension, balance of pension i.e. regular pension w.e.f.01.11.2016 with difference, if any, and the full payment for the period of suspension. Vide prayer clause (b), interim relief was sought.

5. Mrs. A.B. Kololgi, the learned Presenting Officer has furnished for my perusal a communication of 6.4.2017 from Deputy Conservator of Forest, Sawantwadi – the Respondent No.3 to the Chief Presenting Officer of this Tribunal. He has set out the details of the payments made to the Applicant viz. Provident Fund, the Leave Encashment, Provisional Pension for six months from the period of 1.5.2016 to 31.10.2016. Pertinently, it is then mentioned that, by virtue of Rule 130(1) of the



Maharashtra Civil Services (Pension) Rules, 1982, the gratuity and regular pension cannot be paid so long as the departmental proceedings or the judicial proceedings remained pending. It is a common ground that no judicial proceeding is pending against the Applicant. I shall presently turn to the departmental proceeding aspect of the matter which I have already sufficiently discussed hereinabove. It appears that, on 13.12.2016, the amount of Group Insurance has already been paid to the Applicant. The said authority has then reiterated that, despite the period of six months of the provisional pension, the DE was still pending, and therefore, separate orders have been sought for from the authority named therein.

6. I have already reproduced at the outset, my order in the earlier OA. It was self-regulated and self-operational order containing therein the consequences that would ensue, if the DE was not concluded in every respect in effect by 26th March, 2017, the whole thing is so simple as not to leave any scope for doubt. Admittedly, no final order was made on 26th March, 2017 or before that and after that, none could have been passed. I disapprove of the unnecessary obstinacy shown by the Deputy Conservator of Forest who has addressed a communication of 6.4.2017 and who has somewhat adamantly maintained that the DE



was still pending against the Applicant. It, in fact, was not pending at all and for this simple reason, I declined to grant the request of the learned PO for further time to the authorities. The learned PO told me that, she had telephonically contacted the said authority Mr. B.P. Jadhav, Office Superintendent of Respondent No.3 and he requested for further time which I unhesitatingly declined. It was mentioned at the outset that, this OA deserves to be disposed of at this stage itself. Mr. Lonkar, the learned Advocate for the Applicant makes it clear that, this OA is restricted only to the payments not received so far.

7. The Respondents are hereby directed to release the payment of gratuity, commutation of pension and the regular pension of the Applicant from 1.11.2016 till date and then continue to pay the same every month in accordance with the Rules within a period of six weeks from today. In so far as the period of suspension is concerned, a decision be taken by the Respondents within a period of four weeks from today in accordance with the observations hereinabove made which should lead to said period being treated as period spent on duty. If no action is taken at the expiry of the four weeks, then within two weeks thereafter, appropriate orders shall be made to treat that period as period spent on duty and the financial



implications, if any, shall be appropriately addressed by way of the payment being made within that period of two weeks. The Original Application is allowed in these terms with no order as to costs.

Sd/-

(R.B. Malik)

Member-J

04.05.2017

Mumbai

Date : 04.05.2017

Dictation taken by :

S.K. Wamanse.

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