

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.335 OF 2016

DISTRICT : PUNE

Shri Subhash B. Patekar.)
Age : 62 Yrs, Retired as Joint Sub Registrar))
Class-II, Haveli - 12, Pune and R/o.))
2361, New Modi Khana, Pune Camp,))
Pune - 1.)...**Applicant**

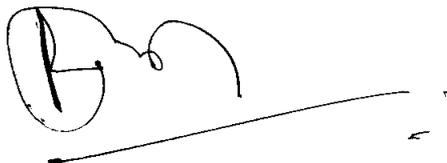
Versus

1. The State of Maharashtra.)
Through Principal Secretary,)
Special Assistance & Rehabilitation)
Department, Mantralaya,)
Mumbai - 400 032.)
2. The Inspector General of Registration))
And Controller of Stamps, MS,))
Pune having office at Old Council))
Hall, Pune - 1.)...**Respondents**

Mr. B.A. Bandiwadekar, Advocate for Applicant.

Mrs. K.S. Gaikwad, Presenting Officer for Respondents.

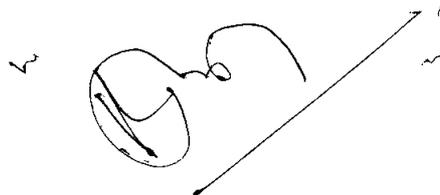
P.C. : R.B. MALIK (MEMBER-JUDICIAL)



DATE : 31.01.2017

JUDGMENT

1. This Original Application (OA) is made by a retired Joint Sub Registrar, Class-II seeking the release of pre and post retirement dues such as Gratuity, Leave Encashment, Commutation of Pension, Difference between Provisional Pension and Regular Pension and interest thereon from 1st February, 2012 or at least from 1st January, 2016 and all that with consequential benefits.
2. I have perused the record and proceedings and heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicant and Mrs. K.S. Gaikwad, the learned Presenting Officer for the Respondents.
3. Be it noted at the outset that the Applicant has already received GPF and GIF. He is getting provisional pension.
4. As far as the other heads are concerned, be it noted that the 2nd Division Bench of this Tribunal speaking through me and in deciding **OA 119/2013 (Shri Subhash B. Patekar Vs. State of Maharashtra and one another,**



dated 24.8.2015 made the following order in the following terms.

“In view of the foregoing, the Original Application is disposed of with a direction that D.E pending against the applicant be concluded by 31.12.2015 and in the event the said deadline is not met the charge sheet shall stand quashed ipso facto. Both sides are directed to note that the first date of hearing before the Enquiry Officer shall be 1st September, 2015 at 11.00 am, the Respondent and Applicant must attend the same at the place which shall be notified by the Respondents and the Respondents should also make sure that the Enquiry Officer and Presenting Officer are also present. If need be the D.E be conducted day to day.

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

5. It is a common ground that the Respondents did not keep the time limit and even as the order was self-operational and the time had expired, they went ahead with the enquiry. In the meanwhile, they lodged Writ Petition No.5501/2016 (Inspector General of Registration and Controller of Stamps and another Vs. Shri Subhash B. Patekar) on 2nd April, 2016. On 13th July, 2016, a Division Bench of the Hon'ble Bombay High Court made the following order.

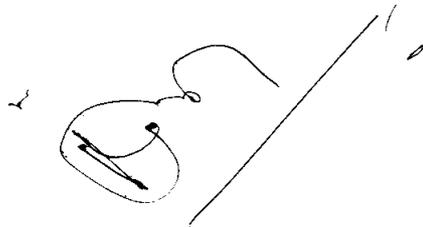
- “1) Stand over to 27th July 2016 for final disposal.
- 2) The impugned order in the meantime is stayed.

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6. It is, therefore, very clear that till such time that the Hon'ble High Court was pleased to grant stay, the Respondents went on with the DE against the Applicant though the time limit granted in the OA had expired. Now also, I am informed that they are seeking approval of the MPSC against the proposed action against the Applicant.

7. Mr. Bandiwadekar informed that another OA has been filed by the Applicant being OA No.904/2016 (Shri Subhash B. Patekar Vs. State of Maharashtra and 2 others). Therein, in effect the Applicant has challenged the enquiry having been continued after 31st December, 2015 and several other points have been raised which are not germane hereto.

8. The above discussion must have made it very clear that now whatever post retiral benefits remained like Gratuity, Leave Encashment, Commutation of Pension, etc., they may have to await till such time as the pending proceedings before the Hon'ble High Court and the 1st Division Bench of this Tribunal are decided. There is, therefore, no reason why this OA should be kept pending. The interest of the Applicant can be safeguarded by making it clear that this OA will be disposed of with liberty to the Applicant to file a fresh OA for the same relief, if



need be and in fact, subject to the permission of the Division Bench of this Tribunal even to amend the OA in that particular matter and seek the same relief.

9. Mr. Bandiwadekar was insistent that I should adjourn this OA *sine-die* and not dispose it of. As to this submission of the learned Advocate, I find that in the ultimate analysis, the crux of the matter is to safeguard the interest of the parties before the judicial forum and I see no reason why in the factual scenario such as it is, this OA should be kept pending. That will be more so when the necessary safeguards have already been provided to the Applicant.

10. This Original Application stands hereby disposed of with liberty to the Applicant to file a fresh OA on same cause of action or if need be and subject to the grant of permission by the Division Bench of this Tribunal in OA 904/2016 to amend that OA. No order as to costs hereof. Hamdast.

Sd/-

(R.B. Malik)
Member-J
31.01.2017

31-1-17

Mumbai

Date : 31.01.2017

Dictation taken by :

S.K. Wamanse.