

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.954 OF 2023

DISTRICT : PUNE

Sub.:- Departmental Enquiry

Shri Sanjay K. Chandanshiv.)
Age : 59 Yrs, Police Head Constable (Retd.))
R/O 20 Sai Enclaves No.31/1A,)
Jambhulwadi Road, Pune City – 411 046.)...**Applicant**

Versus

1. The Government of Maharashtra.)
Through Additional Chief Secretary,)
Home Department, Mantralaya,)
Mumbai – 400 032.)
2. The Director General of Police,)
M.S, Mumbai, having Office at)
Old Council Hall, Mumbai.)
3. The Commissioner of Police,)
Pune City, Pune.)
4. The Assistant Commissioner of Police)
Pharaskhana, Pune.)...**Respondents**

Shri M.D. Lonkar, Advocate for Applicant.

Smt. S.P. Manchekar, Chief Presenting Officer for Respondents.

**CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Debashish Chakrabarty, Member-A**

DATE : 29.09.2023

JUDGMENT

1. In this O.A, the challenge is on the basis of Rule 27 of Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as 'Pension Rules of 1982' for brevity). The Ld. Advocate submits that the incident/misconduct for which DE is instituted has taken place four years prior to the date of retirement of the Applicant and hence, it is not maintainable. The said point is contended specifically in OA for which the Government has not filed specific reply.

2. The Ld. Advocate for the Applicant submits that the date of retirement of the Applicant is 30.06.2022 and Applicant was arrested on 18.12.2017.

3. The Ld. Advocate for the Applicant drew our attention to Para 6.6 of the OA where there are specific averments based on Rule 27 of 'Pension Rules of 1982' and in the Affidavit-in-Reply filed by Mr. Prashant B. Bhasme, Police Inspector, Control Room on behalf of Respondent No.3, the Respondents have admitted the contents in Para No.6.6 are true and correct.

4. In view of this, we reproduce Rule 27 of 'Pension Rules of 1982', which is as under :-

“27. Right of Government to withhold or withdraw pension.- (1) Government may, by order in writing, withhold or withdraw a pension or any part of it, whether permanently or for a specified period, and also under the recovery from such pension, the whole or part of any pecuniary loss caused to Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement.

(2)(a) The Departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority

by which they were commenced in the same manner as if the Government servant had continued in service.

(b) The Departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment.-

(i) shall not be instituted save with the sanction of the Government,

(ii) shall not be in respect of any event which took place more than four years before such institution, and

(iii) shall be conducted by such authority and at such place as the Government may direct and in accordance with the procedure applicable to the departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.”

[emphasize placed]

5. Thus, since incidence took place is beyond four years preceding his date of retirement, he is entitled to get the benefit of the mandate of Rule 27 of 'Pension Rules of 1982'. Hence, the following order :-

ORDER

- (i) The Original Application is allowed.
- (ii) The DE is hereby quashed and set aside.
- (iii) No order as to costs.

Sd/-
(DEBASHISH CHAKRABARTI)
Member-A

Sd/-
(MRIDULA BHATKAR, J.)
Chairperson

Mumbai
Date : 29.09.2023
Dictation taken by :
S.K. Wamanse.

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