

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
REVIEW APPLICATION NO.19 OF 2017
IN
ORIGINAL APPLICATION NO.189 OF 2017

1. The State of Maharashtra,)
Through the Principal Secretary,)
School Education & Sports Department,)
Mantralaya, Mumbai)

2. The Deputy Director of Education,)
Netaji Subhash Chandra Road, Bal Bhawan,)
Charni Road, Mumbai 400004)..Applicants
(Ori. Respondents)

Versus

Shri Prakash Baburao Bagul,)
Age 58 years, occ. Retired HM,)
R/o 601, B.No.4, Erika, Vasant Valley,)
Khadakpada, Kalyan (W)-42)..Respondent
(Ori. Applicant)

Shri N.K. Rajpurohit – Presenting Officer for the Applicants-original
Respondents

Shri R.M. Kolge – Advocate for the Respondent-original Applicant

CORAM : Shri Justice A.H. Joshi, Chairman
CLOSED ON : 24th November, 2017
PRONOUNCED ON : 29th November, 2017

J U D G M E N T

1. Heard Shri N.K. Rajpurohit, learned Presenting Officer for the Applicants-original Respondents and Shri R.M. Kolge, learned Advocate for the Respondent-original Applicant. Perused the record.

2. By the present RA Applicants seek clarification/review as follows:

“(a) This Hon’ble Tribunal be pleased to review the order passed by this Hon’ble Tribunal dated 9.8.2017 in the Original Application to the extent of Original Applicant in OA No.189 of 2017 and to direct the Original Respondents to commence and continue to pay the regular pension to the applicant in OA No.188 of 2017 and not in respect of Shri P.B. Bagul who is applicant in OA No.189 of 2017. Shri P.B. Bagul will get provisional pension only after the retirement and not the regular pension.”

(Quoted from page 4 of RA)

3. The prayer is based on the ground which is averred in para 3 of the RA. The said ground reads as follows:

“3. The present OA No.189 of 2017 was decided along with the OA No.188 of 2017 filed by Shri N.S. Mukane. As there were two matters before the Hon’ble Tribunal and in OA No.188 of 2017 a regular pension was paid to the Orig. applicant Mr. N.S. Mukane prior to the initiation of departmental enquiry which was initiated after the retirement of the Orig. Applicant. After serving the charge sheet regular pension was discontinued. But so far as the applicant in OA No.189 of 2017 Shri P.B. Bagul, no regular pension was paid and he was paid only provisional pension as the Orig. Applicant was suspended in contemplation of DE. Though he was reinstated by the department, he was given provisional pension only.”

(Quoted from page 2 of RA)

4. In the affidavit in reply which is filed for opposing RA, factual matter stated in para 3 of Review Application which is quoted in foregoing paragraph is not disputed rather it is tacitly admitted.

5. The crux of the matter is whether the pension as was granted to applicant Shri N.S. Mukane, who was applicant in OA No.188 of 2017, was also granted to Shri Prakash Baburao Bagal, who was applicant in OA No.189 of 2017? The answer to the question referred to in foregoing sentence which is in fact undisputed, is as follows:

“Pension was granted in favour of applicant Shri N.S. Mukane the applicant in OA No.188 of 2017, but not in favour of Shri Prakash Baburao Bagal the applicant in O.A 189/2017.”

6. Therefore, it is evident that a common judgment in OA No.188 of 2017 and OA No.189 of 2017 is based on error of fact as to the foundation of judgment in so far as OA No.189 of 2017 is concerned.

7. Hence, order passed in OA No.188 of 2017 and OA No.189 of 2017 deserved to be and is reviewed and para 6 of the judgment and order dated 9.8.2017 therein be and is substituted as follows:

“6A(a) Original Application No.188 of 2017 is allowed.

(b) The respondents are directed to commence and continue to pay the regular pension to the Applicant Shri N.S Mukane in O.A 188/2017 in accordance with the decision of Government to commence applicant’s pension on or before 30.9.2017 and then continue to pay the same regularly.

- (c) GIS and other benefits which can be paid to him be also paid, if not already paid, by the same date.
- (d) As far as the DE aspect of the matter is concerned, the Applicant is allowed to withdraw from this OA and to that extent with liberty to file fresh proceeding on same cause of action is granted for being placed before the Division Bench.
- (e) In these terms the OA 188/2017 is partly allowed of with no order as to costs.

6B. Original Application No.189 of 2017 be de-tagged and be heard afresh and disposed in accordance with law.”

- 8. Present Review Application is allowed in terms of directions contained in foregoing paragraph No. 6.
- 9. Parties are directed to bear own costs.

(A.H. Joshi, J.)
Chairman
29.11.2017

Dictation taken by: S.G. Jawalkar.