

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 730/2022(S.B.)**

Sudhakar Mahadeorao Baitule,
(Since Dead) Through his legal heirs :

1. Shalini Wd/o Sudhakar Baitule,
Aged about 75 years,
Occupation : Household.
2. Sudhir S/o Sudhakar Baitule,
Aged about 50 years,
Occupation : Private Service,
Both R/o. Geeta Nagar, Zingabai Takli,
Mankapur, Nagpur – 440030.

Applicants.

Versus

1. The State of Maharashtra,
Through its Secretary,
Agriculture Department,
Mantralaya, Mumbai-32.
2. Commissioner of Agriculture,
Maharashtra State, Pune.
3. Divisional Joint Director of Agricultural,
Nagpur Division, Nagpur.
4. Taluka Agricultural Officer,
Ramtek, Tah. Ramtek,
District –Nagpur.

Respondents.

Shri P.V.Thakre, Ld. Counsel for the applicants.
Shri M.I.Khan, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 13th June, 2024.

JUDGMENT

Heard Shri P.V.Thakre, learned counsel for the applicants
and Shri M.I.Khan, learned P.O. for the Respondents.

2. Case of the applicants in short is as under-

The husband of applicant no.1 and father of applicant no.2 namely Sudhakar Mahadeorao Baitule was initially appointed on the post of Clerk w.e.f. 14.11.1970. Deceased joined the duty at Panchayat Samittee Narkhed. He was relieved from Narkhed, but not allowed to join duty at Nagpur Office. Deceased Sudhakar Mahadeorao Baitule was abruptly transferred to Gadchiroli. Deceased Sudhakar Baitule has availed extra ordinary leave of 5 years 7 months. Thereafter, deceased Sudhakar Baitule joined duties with respondent no.4 in the month of July 2000. Deceased Sudhakar was compulsorily retired on 04.11.2000. Sudhakar Baitule died on 30.06.2020. The applicant no.1 is his wife and no.2 is his son. The respondents have not paid pension and pensionary benefits to the deceased Sudhakar Baitule and after his death to the applicants.

Deceased employee and the applicants made several requests to the respondents to pay the pension and pensionary benefits (copies of request letters are on record).

3. Even after several representations / requests the respondents have not paid pension / family pension etc.. Therefore, the applicants approached to this Tribunal for the following reliefs-

- i) hold and declare that the applicants are entitled to get the family pension of the deceased Sudhakar Mahadeorao Baitule from 01.07.2020 and the deceased is entitled to get notional pension from 04.11.2000 to 30.06.2020 and all other consequential benefits ;*
- ii) direct the respondents to forthwith grant family pension of the deceased Sudhakar Mahadeorao Baitule from 01.07.2020 and the deceased is entitled to get notional pension from 04.11.2000 to 30.06.2020 and all other consequential benefits ;*
- iii) direct the respondents to grant interest over the delayed payments of pensionary benefits till realization ;*
- iv) direct the respondents to update the service-book of Late Sudhakar Baitule ;*
- v) grant any other relief, which this Hon'ble Tribunal deems fit and proper under the facts and circumstances of the case and in the interest of justice.*

Interim Relief if any:

- i) During the pendency of the present application, be pleased to direct the respondents to forthwith grant provisional family pension to the legal heirs of the deceased Sudhakar Baitule ;*
- ii) Grant ad-interim relief in terms of prayer clause (i) above.*

4. The O.A. is strongly opposed by the respondents. It is submitted in para 4 of the reply that deceased Sudhakar not completed 20 years of service, and therefore he was not eligible for pension and therefore the applicants are also not entitled for family pension.

5. During the course of submissions, the learned counsel for the applicant has pointed out Rule 110 of the Maharashtra Civil Services (Pension Rules) 1982 and submitted that after completion of 10 years of service, the employee is entitled to get Gratuity, pension etc. shall be calculated at the rate of half month's pay for every completed six monthly period of qualifying service.

6. During the course of submissions, the learned P.O. has submitted that deceased employee namely Sudhakar Mahadeorao Baitule has not completed 20 years of service therefore, he was not eligible for pension. Hence, the applicants are also not entitled for family pension.

7. Rule 110 of the Maharashtra Civil Services (Pension Rules) 1982 is reproduced below-

110. Amount of pension

(1) In the case of a Government servant retiring on Superannuation, Retiring, Invalid or Compensation Pension before completing qualifying service of ten years, the amount of service gratuity shall be calculated at the rate of half month's

pay for every completed six monthly period of qualifying service.

(2) (a) In the case of a Government servant retiring on Superannuation, Retiring, Invalid or Compensation Pension in accordance with the provisions of these rules after completing qualifying service of not less than thirty-three years, the amount of pension shall be calculated at fifty percent of the "Pensionable Pay" subject to a maximum of Rs.4,000 per month]

(b) In the case of a Government servant retiring on Superannuation, Retiring, Invalid or Compensation Pension in accordance with the provisions of these rules before completing qualifying service of thirty-three years but after completing qualifying service of the amount of pension shall be proportionate to the amount of pension admissible under clause (a) and in no case the amount of pension shall be less than [rupees three hundred and seventy five] per mensem.

(3) In calculating the length of qualifying service, fraction of a year equal to [three] months and above shall treated as a completed one-half year and reckoned as qualifying service.

(4) The amount of pension finally determined under clause (a) or clause (b) of sub-rule (2), shall be expressed in whole rupee and where the pension contains a fraction of a rupee it shall be rounded off to the next higher rupee.

8. There is no dispute that deceased Sudhakar Mahadeorao Baitule was compulsorily retired. As per Rule 110 of the M.C.S (Pension Rules) 1982, the employee who is retired compulsorily is entitled to get pension. Respondent no.4 had submitted proposal to

the District Superintendent Agriculture Officer, Nagpur dated 28.11.2022. As per this proposal final pension is to be paid, but till date the respondents have not finalised the pension case of the deceased / family pension of the applicant. The material portion of letter dated 28.11.2022 is reproduced below-

तरी म.ना.से. (निवृत्ती वेतन) नियम १९८२ मधील तरतुदी नुसार संबंधितांचे शेवटचे वेतन व सेवाकालावधीनुसार सेवाकालखंड बाबत वरील संदर्भीय पत्र क्र. १ अन्वये कळविले असून त्यांना सेवानिवृत्ती प्रकरणातील लाभ मिळण्याकरीता आवश्यक असलेला कालखंड ग्राह्य धरले असल्यास, श्री. सुधाकर महादेवराव बैतुले, लिपीक सक्तीने सेवानिवृत्त याचे सेवा निवृत्ती प्रकरण शेवटचे वेतना प्रमाणे करण्यास हरकत नसावी अशी या कार्यालयाची धारणा, आहे.

9. In view of the letter / proposal of respondent no.4 dated 28.11.2022, employee Sudhakar Baitule and after his death applicant no.1 is entitled for family pension. The applicant no.1 shall withdraw the amount of retiral benefits of deceased Sudhakar Baitule, as she is entitled for family pension. Hence, the following order-

ORDER

1. The O.A. is allowed.
2. The respondents are directed to pay the pension and pensionary benefits to the applicant no.1 as per

proposal / letter dated 28.11.2022 submitted by
respondent no.4 and as per rules.

3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 13/06/2024.
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Vice Chairman.
Judgment signed on : 13/06/2024.
Uploaded on : 18/06/2024.
