MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 809/2021(D.B.)

Narendra Amrutrao Wakode,
Aged about 58 years,
R/o Saptshrungi Nagar, Nandura Road,
Jalgaon (Jamod) Dist. Buldana.

Applicant.

Versus

1. The Secretary,
   Department of Agriculture, Animal Husbandry,
   Dairy Development & Fisheries Department,
   Mantralaya, Mumbai-32.
2. The Commissioner of Agriculture
   M.S. Central Building Pune -01.
3. The Joint Director of Agriculture,
   Amravati region Camp Area Amravati,
   District Amravati.
4. The Taluka Agriculture officer,
   Jalgaon (Jamod) Taluka Jalgaon (Jamod)
   District Buldana.

Respondents.

Shri B.Kulkarni,Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman &
Hon'ble Shri Nitin Gadre, Member (A).
Dated: - 12th September, 2024.

JUDGMENT

Heard Shri B.Kulkarni, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the Respondents.

2. The case of the applicant in short is as under.

The applicant was working as Tracer in the Office of respondent no.4. He was in continuous service till 10.08.2009. By letter dated 10.08.2009, the respondent no.4 has relieved him from the duty on the ground that he is declared permanently unfit by the Medical Board. The applicant has submitted that in view of the provisions of Rights of Persons with Disabilities Act, 2016, respondents should not have been removed the applicant from service. The provision of Section 47 is very clear and therefore prayed to give direction to the respondents to follow procedure under Section 47 of the Rights of Persons with Disabilities Act, 2016. Therefore, the applicant has approached to this Tribunal for the following reliefs-

> ***i) Direct the Respondents to grant pay & allowances to the applicant from 11/08/2009 till the date of superannuation 30/04/2021 as duty pay u/r 47 (1) of the persons with***

Disabilities [Equal opportunities, protection of right & full participation] Act, 1995.

ii) Direct the Respondents to grant revise pension to applicant as per 7th pay commission.

iii) Direct the R.No.3 & 4 to modify the order dated 10/08/2009 to retire the applicant pre-maturely.

iv) Any other relief deemed proper in the facts and circumstances of the case, in the interest of justice.

3. The O.A. is strongly opposed by the respondents. It is submitted that the applicant himself prayed for Voluntary Retirement as per application dated 07.09.2009 and therefore O.A. is not maintainable.

4. During the course of submission, the learned counsel for the applicant has pointed out Section 47 of the Rights of Persons with Disabilities Act, 2016 and submitted that the applicant is entitled to get relief as prayed in this O.A.. In support of his submission, pointed out order of this Tribunal in O.A.No.825/2011 decided on 23.07.2012.

5. The learned P.O. has pointed out the application submitted by the applicant dated 07.09.2009. This application is filed by the respondents along with reply.

6. After verifying the application of applicant dated 07.09.2009 it is clear that applicant has suppressed the material facts. In this O.A. nowhere stated that he applied for Voluntary

Retirement. The applicant himself prayed for Voluntary Retirement. Therefore, Section 47 is not applicable to the case in hand.

7. The learned counsel for the applicant has pointed out the Judgment in O.A.No.825/2011. Facts in the cited Judgment are very much different. In that O.A. the Medical Board declared the applicant unfit for duty and therefore he was compulsorily retired. In the present matter the applicant himself applied for Voluntary Retirement as per letter dated 07.09.2009. The letter dated 07.09.2009 is reproduced below-

> प्रति,
> मा.विभागीय कृषी सहसंचालक, अमरावती विभाग,
> अमरावती.
>
> मार्फत : योग्य मार्गाने
> विषय : रुणता सेवा निवृत्ती मंजुरी बाबत.
> संदर्भ : १) मा. अधिष्ठाता ससुन सर्वोपचार रुग्णालय पुणे यांचे वैद्यकिय मंडळाचे असक्षम पत्र क्र. १६६०/०९ दिनांक ६/८/२००९
>
> उपरोक्त संदर्भिय विषयाचे पत्राचे अनुषंघाने सविनय अर्ज सादर करतो की, मी तालुका कृषि अधिकारी, जळगांव जामोद या कार्यालयात अनुरेखक या पदावर दिनांक ३०/५/१९९२ पासून कार्यरत आहे. मी नेत्ररोगाने (दृष्टिदोष) आजारी असल्याने मला वरील संदर्भिय पत्रांन्वये शासकिय कामासाठी असक्षम (Unit) केलेले आहे. त्यानुसार तालुका कृषि अधिकारी, जळगांव आमोद कार्यालया मार्फत माझा रुग्णता सेवा निवृत्ती मिळणे बाबतचा प्रस्ताव आपले कार्यालयास मंजुरीस्तव पाठविण्यात येत आहे.
>
> त्यामुळे मला रूणता सेवा निवृत्ती मंजुर करतांना मला म.ना.से. (निवृत्ती वेतन) नियम २००९ नुसार मला निवृत्ती वेतन मंजुर करण्यात यावी. कारण दिनांक ६/८/२००९ पर्यंत माझी सेवा २३ वर्षे ५ महीने नियमीत झालेली आहे. सहाव्या वेतन आयोगा प्रमाणे २० वर्षे अहर्ताकारी सेवा झालेल्या कर्मचा-यांना पूर्ण सेवा निवृत्तीचे वेतन देण्याचे मंजुर

करण्यात आलेले आहे. त्यानुसार माझे नुकसान होणार नाही, अशा प्रकारचे सेवा निवृत्तीचे वेतन मंजूर करण्याचे आदेश देऊन सेवा निवृत्ती करण्यात यावे. हि विनंती.

आपला विश्वासू,

श्री.न.अ.वाकोडे (अनुरेखक)

ता. कृ.अ.जळगाव जामोद

8. The applicant himself prayed for Voluntary Retirement. The applicant has nowhere stated in the O.A. that he had applied for the V.R.S. He has suppressed the material facts from this Tribunal. Hence, the applicant is not entitled for the relief claimed in this O.A. Therefore, we proceed to pass the following order -

ORDER

The O.A. is dismissed with no order as to costs.

(NitinGadre)
Member(A)

(Justice M.G.Giratkar)
Vice Chairman

Dated – 12/09/2024.
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 & Hon'ble Member (A).
Judgment signed on and pronounced on	:	12/09/2024.

***