

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1731 OF 2014

(Bhimrao s/o Bapurao Machale vs. The Commissioner (Handicap), Handicap Welfare, Commissioner
Office, Maharashtra State, Pune & Ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
A.P. BHANGALE, JJ.
JANUARY 13, 2015.**

Heard Shri Chopde, learned counsel for the petitioner, Shri Rode, learned AGP for respondent Nos.1 & 4, Shri Meghe, learned counsel for respondent Nos. 2 & 3 and Shri Kidilay, learned counsel for respondent No.5.

Perused the documents.

Respondent No. 5 has in other matters handed over the records as directed by this Court on 23.01.2014 in Writ Petition No. 4597 of 2013. In present case, his stand is, he does not have any record in respect of services rendered by the petitioner.

Shri Chopde, learned counsel submits that Respondent No. 5 has with oblique motive withdrawn the records in respect of the petitioner and, therefore, he is not getting the benefit of leave encashment, medical leave, time bound promotion, arrears of wage revision and other dues. He, therefore, seeks a direction to Zilla

Parishad through District Social Welfare Department to seize those records from the custody of Respondent No. 5.

The learned AGP as also Shri Meghe, learned counsel, submit that as the services of the petitioner were approved, they have released pension in his favour. After receipt of necessary documents, the entitlement of the petitioner to various retirement benefits can be examined and if he is found eligible, the same will be paid to him.

However, Shri Kidilay, learned counsel, reiterates the stand disclosed by Respondent No. 5 in the affidavit. He submits that those records are not with Respondent No. 5.

In this situation, it is not necessary for this Court to go into any disputed questions. The Zilla Parishad through District Social Welfare Department (Respondent No. 3) can take necessary steps to reconstruct the record with the cooperation of Respondent No. 5. Respondent No. 5 to cooperate with Respondent No. 3 in reconstruction of records.

The records be reconstructed within three months from today. After the records are reconstructed, the petitioner's entitlement shall be examined and such of the benefits as are found payable to him, shall be released in next two months. The acceptance of such benefits shall not preclude the petitioner from challenging the correctness of the exercise undertaken.

With these directions and keeping all rival contentions regarding eligibility to the retirement benefits of the petitioner open, we dispose of the present writ petition. However, in the facts and circumstances of the case, there shall be no order as to costs.

JUDGE

JUDGE

**G.S.*