

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9437 OF 2015
(Caption Raosaheb S/o Dayaram Suryawanshi Vs. The State of
Maharashtra and others)

Mr.Sachin S.Deshmukh, Advocate for the petitioner.
Mr.P.N.Kutti, AGP for respondent Nos. 1 to 3.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 03/10/2016

PER COURT :

1. Despite service of Court notice on respondent Nos. 4 and 5, none have caused an appearance either through an Advocate or in person. This matter has been adjourned on a few occasions. Even today, none appears for respondent Nos. 4 and 5.

2. The petitioner has joined services with respondent No.5, which is a Military School, as an Education Instructor, after putting in 20 years of service in the Indian Army. He is 70 years old as on date. By order dated 15/01/2015, despite the petitioner having worked from 15/12/2004 till 14/12/2007, his claim for pension has been rejected for the reason that his service for the said period was on 'honorary basis' and such service is not treated as 'qualifying service' for the purposes of pensionary benefits under the M.C.S. (Pension) Rules.

3. The petitioner indicates from the document at page No.14, which is an order passed by the Education Officer dated 07/09/2009, by which respondent No.5 has been informed that the services of the petitioner have been approved. Contention is that the service as an Educational Instructor is equivalent to a 'Shikshan Sevak'.

4. It is further pointed out that the GR dated 19/07/2011 indicates that the service on honorarium basis by a 'Shikshan Sevak' or 'Gram Sevak' or 'Krishi Sevak' who have been working on contract basis prior to 01/11/2005 in various schools including a Military School, would be entitled for pensionary benefits by considering the service on honorarium as a part of qualifying service.

5. Despite opportunities, respondent No.4, who could have assisted the Court in this matter, has not caused an appearance and has therefore failed to assist the Court in dispensing justice.

6. Considering the above and the GR dated 19/07/2011, this petition is partly allowed with the following directions :-

[a] The order dated 15/01/2005, passed by respondent No.4, is

quashed and set aside.

- [b] The issue of pension of the petitioner is remitted back to the Office of the Principal Accountant General (Accounts and Entitlements)-I, Maharashtra for reconsideration.
- [c] The competent authority shall consider the effect of the GR dated 19/07/2011 while deciding the issue of pension of the petitioner afresh.
- [d] The Secretary, Government of India, Finance Department, Central Secretariat, New Delhi or any other competent authority shall take into account the failure of respondent No.4 The Principal Accountant General (Accounts and Entitlements)-I, in assisting this Court despite service of notice and shall initiate appropriate action for the said lapse on his part.
- [e] Action taken shall be communicated to the Registrar (Judicial) of this Court within a period of 6 (six) months from today.
- [f] Considering that the petitioner is of 70 years age, the Competent Authority shall decide his claim for pensionary benefits in the light of the above directions as expeditiously as possible and within a period of 120 days.

7. The Registrar (Judicial) of this Court shall place a copy of this order before the Secretary, Government of India, Finance Department, Central Secretariat, New Delhi, within 3 (three) weeks from today, for compliance.

(RAVINDRA V. GHUGE, J.)