

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 694 OF 2015

Dr.Somji Vitthal Chaudhary Vs. State of Maharashtra Deptt. of Public Health & Ors.

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

Court's or Judge's Order

Smt U. A. Patil Adv for petitioner.
Shri N. S. Rao, AGP for respondent nos. 1 & 2.
Shri Amol Deshpande Adv for respondent no. 3.

CORAM: SMT. VASANTI A. NAIK &
A. S. CHANDURKAR JJ.

DATED: 22nd FEBRUARY, 2016.

By this petition, the petitioner seeks a direction to the respondents to make the payment of arrears of salary as per the recommendations of the 4th Pay and 5th Pay Commission with effect from 1986 and 1996 respectively with interest.

The petitioner claims that he was retired from service on medical grounds. It is stated that after the writ petition filed by him was decided on 27.02.2003, the respondents finalised the pension case of the petitioner. The petitioner was paid the monthly pension and also the dues that were liable to be paid as per the recommendations of the 4th and 5th Pay Commission. However,

according to the petitioner, the entire dues are not paid and the arrears of difference of salary as per the recommendations of the 4th and 5th Pay Commission, is liable to be paid to the petitioner.

The respondent no. 2 and respondent no. 3 have filed the affidavit in reply. It is stated in the affidavit in reply filed on behalf of the respondents that the petitioner was retired from service on medical grounds on 10.12.1996. It is stated that the dues of the petitioner were settled in the year 2001 and all the dues of the petitioner were cleared in the year 2004. It is stated that the petitioner was paid gratuity in the year 2001 and group insurance amount in the year 2002. The details of the amount paid to the petitioner are mentioned in the affidavit in reply filed on behalf of the respondent no.3. It is stated that the petitioner had been paid the arrears of salary as per the recommendations of the 4th and 5th Pay Commission. It is stated that the petitioner has made a false statement in the writ petition that he is entitled to amount of Rs. 7,50,000/- from the respondents towards retirement dues and the arrears of salary as per the recommendations of the 4th and 5th Pay Commission.

We find on a reading of the affidavit in reply filed on behalf of respondent nos. 2 and 3 that the dues of the petitioner

were cleared during the period from 2001 to 2004. Nothing appears to be due and payable to the petitioner. Had some amount been payable to the petitioner in 2003-04 the petitioner would have approached this Court within a reasonable time from 2003-04. The petition is filed on 21.01.2015 seeking the arrears of difference of salary from 1986 and 1996. The petition suffers from laches. The petitioner claims that a representation in regard to non payment of certain dues is made in the year 2010. The petitioner ought to have approached the Court of law within a reasonable time if the dues of the petitioner were not paid since 2003-04. Mere making of successive representations would not stop limitation. The statements of facts made in the affidavit in reply of the respondent nos. 2 and 3 are not specifically denied by the petitioner by filing a rejoinder or additional affidavit. In the absence of any denial to the statement in respect of payment of dues, it would be necessary to hold that the respondents have cleared the dues of the petitioner. In this background, the request made on behalf of the petitioner that the petitioner should be permitted to again make a representation to the respondents and the respondents should be directed to decide the same, is liable to be rejected.

In the circumstances of the case the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

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