

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4510 OF 2015

Sunil Dattatraya Samarth

-vs-

State of Maharashtra, thr.its Secretary, Industries, Energy & Labour Deptt.and others

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

Court's or Judge's Orders.

Mr. M.A.Vishwarupe, counsel for the petitioner.
Mr. S.M.Ukey, Addl.G.P. for the respondent No.1.
Mr. D.N.Kukday, counsel for the respondent Nos.2 and 3.

CORAM : SMT. VASANTI A NAIK &
KUM. INDIRA JAIN, JJ.

DATE : 14.09.2016.

By this writ petition, the petitioner seeks a direction against the respondent Nos.2 and 3 to pay the retiral benefits, including the gratuity and leave encashment to the petitioner.

It is stated on behalf of the parties that, during the pendency of the writ petition, the respondents have passed the order of penalty, dated 01/09/2016, thereby withholding three increments of the petitioner and treating the suspension period as "suspension period", thereby depriving the petitioner of the salary for the said period. It is stated that a departmental appeal could be filed by the petitioner against the order, dated 01/09/2016 and unless the order of penalty attains finality and/or is set aside, the petitioner would not be entitled to regular pension. It is stated on behalf of the respondent Nos.2 and 3 that provisional pension and the other retiral benefits would be paid to the petitioner within four weeks.

In view of the subsequent development, it would not be possible for this Court to direct the respondent Nos.2 and 3 to pay the regular pension to the petitioner. In the circumstances of the case, we dispose of the writ petition with liberty to the petitioner to file a departmental appeal against the order of penalty and by accepting the

statement made on behalf of the respondent Nos.2 and 3 (that would be binding on the said respondents) that the retiral benefits due and payable to the petitioner would be released in favour of the petitioner within four weeks.

Order accordingly. No costs.

JUDGE

JUDGE

KHUNTE

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed Order.

Uploaded by : G.S.Khunte,
P.A.to Hon'ble Judge

Uploaded on : 16/09/2016