

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

WRIT PETITION NO. 92 OF 2016

State of Maharashtra by its Principal Secretary, Rural Development &
 Water Conservation Deptt. and another

-vs-

Hemant Baliram Sahare

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

Court's or Judge's Orders.

 Mrs.Kalyani Deshpande, AGP for the petitioners.
 Mr.S.D.Zoting, counsel for the respondent.

CORAM : SMT. VASANTI A. NAIK &
V. M. DESHPANDE, JJ.

DATE : 28.03.2016.

By this writ petition, the State of Maharashtra challenges the order of the Maharashtra Administrative Tribunal, dated 25/06/2015 partly allowing the original application filed by the respondent and directing the State Government to consider that the respondent had retired from service on attaining the age of superannuation on 30/06/2014 on the post of MDS Class-II on which he was appointed on 31/08/1983 and pay him the retiral benefits accordingly.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that there is no scope for interference with the impugned order, in exercise of the writ jurisdiction. The respondent was appointed as MDS Class-II on 31/08/1983. The respondent was promoted in the cadre of MDS Class-I in May, 1990. As per Rule 7(a) of the Maharashtra Development Service Class-I and Class-II (Departmental Examination) Rules, 1991, an employee is required to pass the departmental examination before completing 45 years of age. The respondent

completed 45 years of age on 25/06/2001, but was, however, not able to pass the departmental examination. On the last date of his service, when the respondent was about to retire, the services of the respondent were terminated on the ground that he failed to pass the departmental examination as per Rule 7(a) of the Rules of 1991. The order terminating the services of the respondent was challenged by the respondent before the Maharashtra Administrative Tribunal. The Maharashtra Administrative Tribunal rightly allowed the original application filed by the respondent after holding that the State Government could have at the most reverted the respondent in the cadre of MDS Class-II in which he was appointed on 31/08/1983, as the Rules of 1991 could not have governed his services in the cadre of MDS Class-II in which he was appointed in the year 1983. By relying on an order passed in yet another original application, the Tribunal held that the petitioners ought to have reverted the respondent to the post of MDS Class-II and accordingly finalized his pension case. The approach of the Tribunal in deciding the matter is just and reasonable and we do not find any reason to interfere with the impugned order.

Since the order of the Tribunal is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE