

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1277/2016

(BABURAO VENKATESH KASULKAR, since deceased Thr. L.R.S SMT.LATA BABURAO KASULKAR &
 OTHERS **VERSUS** STATE OF MAHARASHTRA & OTHERS)

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

Court's or Judge's orders

 Shri Kinkhede h/f Shri Harish Dangre, counsel for the petitioners.
 Shri V.P. Gangane, counsel for the R-1.
 Shri K.D. Deshpande, counsel for the R-2 & 3.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JULY 18, 2016.

By this writ petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, dated 29.04.2014 dismissing the original application filed by the petitioner.

The petitioner was working as an Executive Engineer when he was suspended by the order dated 26.12.1983. After the culmination of the departmental proceedings, the petitioner was removed from service on 29.06.1988. The Tribunal dismissed the original application filed by the petitioner, challenging the order of removal from service dated 29.06.1988. The petitioner filed a writ petition against the said order and the same was dismissed. The petitioner then preferred a special leave petition before the Hon'ble Supreme Court wherein, the Hon'ble Supreme Court modified the order of removal from service to the penalty of compulsory retirement. After the Hon'ble Supreme Court modified the order of punishment, the petitioner applied to the respondents for grant of pensionary benefits. By applying the provisions of Maharashtra Civil Services (Pension) Rules, 1982, that were then in force, specially Rules 100 and 101 of the same,

the respondents held that the petitioner was entitled to compassionate pension. According to the petitioner, the petitioner was entitled to regular pension and, hence, he filed the original application seeking a direction to the respondents to pay regular pension to the petitioner as per the recommendations of the 5th and the 6th Pay Commission. The Tribunal dismissed the original application filed by the petitioner, by the impugned order.

On hearing the learned counsel for the parties and on a perusal of the impugned order, we find that the Tribunal was justified in dismissing the original application filed by the petitioner. Though the petitioner was removed from service in the year 1988, the Hon'ble Supreme Court, by the order dated 28.03.1994, partly allowed the special leave petition filed by the petitioner and modified the penalty of removal from service to the penalty of compulsory retirement. The respondent no.2 rightly considered the provisions of Rules 100 and 101 of the Maharashtra Civil Services (Pension) Rules, 1982, that were applicable in the year 1988, to hold that the petitioner was not entitled to regular pension but, was entitled to compassionate pension. The Tribunal observed that the respondent no.2 had rightly fixed the quantum of pension by applying Rule 101 of the Rules of 1982 that were in force, in the year 1988. We find that the respondent no.2 had rightly applied the rules that were in force in the year 1988, specially Rules 100 and 101 of the Rules to fix the quantum of compassionate pension that was payable to the petitioner. The Tribunal rightly held that the case of the petitioner was not at par with the case of the employees that retire from service on attaining the age of superannuation as the petitioner was compulsorily retired from service for misconduct and the provisions of Rules 100 and 101 of the Rules that were in force in the year 1988 applied to his case.

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

JUDGE

JUDGE

APTE

CERTIFICATE

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

Uploaded by: Rohit D. Apte.

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