

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

WRIT PETITION NO.243/2016

Ramchandra s/o Suknandan Pendor ..vs.. The State of Maharashtra through its
 Secreatry, Finance Department, Mantralaya, Mumbai and others

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

Court's or Judge's orders

 Shri Vilas Kulsange, Advocate for petitioner.
 Smt.Kulkarni, Assistant Government Pleader for respondent nos.1 & 3.
 Shri S. Sohoni, Advocate for respondent no.2.

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

DATE : APRIL 27, 2016

By this writ petition, the petitioner seeks a direction to the Chief Executive Officer, Zilla Parishad, Chandrapur to release the pensionary benefits as per the scheme floated by the State government for the employees that had worked and retired from the Naxal affected area. The petitioner seeks a direction to the Zilla Parishad to re-determine the pension of the petitioner in terms of the scheme and grant the arrears of the pensionary benefits to the petitioner.

The petitioner was appointed as an Agriculture-Assistant in the year 1972 and was promoted as an Extension Officer in the year 1998. The petitioner was holding the post of Extension Officer at Panchayat Samiti, Savali that falls in the Naxal affected area. The petitioner attained the age of superannuation and retired from service on 31.07.2006. It is the case of the petitioner that as per the scheme floated by the State Government, the employees that had retired from the Naxal affected areas are entitled to higher pension and the respondent-

Zilla Parishad should re-fix the pension of the petitioner and pay the arrears of the pensionary benefits to him.

The respondent no.2 has filed an affidavit-in-reply. It is stated on behalf of the respondent no.2-Zilla Parishad that as per the Circular of the State Government dated 17.12.2013, the fixation of the pension of a Government employee that has retired after 01.01.2006 should be computed by considering the pay scale of his original post and not the pay scale of the one step promotional post. It is stated that the petitioner had retired on 31.07.2006 i.e. after 01.01.2006 and hence his pension was rightly fixed by considering the pay scale of his original post. The learned counsel for the respondent-Zilla Parishad has relied on the Government Circular dated 17.12.2013, that is annexed to the affidavit-in-reply to substantiate his submission.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioner cannot be granted. On a reading of the circular dated 17.12.2013, it appears that the fixation of pension of a Government servant or an employee that has retired after 01.01.2006 could be made by considering the pay scale of his original post as is done in the case of the petitioner. If the employee has retired after 01.01.2006, the fixation of the pension would not be done by considering the pay scale of the one step promotional post. Admittedly, the petitioner had retired on 31.07.2006 and hence as per the circular dated 17.12.2013, the petitioner would not be entitled to the additional benefits. Though, the petitioner has made a claim for higher pension, in pursuance of a scheme framed by the Government, the scheme is not annexed to the petition. The petitioner has not pointed out from where the right to claim the relief of additional pension emanates in favour of the petitioner. In any case, since the pension of the petitioner cannot

be re-fixed in view of the Government circular dated 17.12.2013, the writ petition is liable to be dismissed.

The writ petition is dismissed as such with no order as to costs.

JUDGE

JUDGE

kahale