

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

**WRIT PETITION NO. 6983 OF 2004
WITH
CIVIL APPLICATION NO. 482 OF 2010
WITH
CIVIL APPLICATION NO. 10939 OF 2017**

Arun Manikrao Kharwadkar

Petitioners

Versus

The State of Maharashtra and others

Respondents

Mr. K.V. Patil, Advocate holding for
Mr. S.R. Barlinge, Advocate for the petitioner.
Mr. Y.G. Gujrathi, A.G.P. for respondent Nos.1 and 2.
Mr. Deelip Patil Bankar, Advocate for respondent No.3.

**CORAM : RAVINDRA V. GHUGE
AND
SUNIL K. KOTWAL, JJ.**

Dated : 03-11-2017.

ORAL ORDER :-

1. The petitioner in this petition has challenged the order of punishment of compulsory retirement dated 23.01.2004

issued by respondent No.2-Commissioner, Animal Husbandry, State of Maharashtra, Pune.

2. While admitting this petition on 09.03.2005, this Court has granted ad-interim relief in terms of prayer clause "D" to the petitioner thereby directing the continuance of the petitioner in service as a Live Stock Development Officer (Extension), Panchayat Samiti, Velha, District Pune and payment of his salary on regular basis. Pursuant to the said direction, the respondents by an order dated 29.06.2005 have withdrawn the order dated 23.01.2004 and have concluded that subject to the outcome of this petition, the petitioner would be treated as on duty from 23.02.2004 till 30.06.2005, on which date the petitioner stood superannuated.

3. Considering the above, we find that this petition has been rendered infructuous.

4. In Civil Application No. 10939/2017 the petitioner

has prayed for payment of his salary for the period from 23.01.2004 till 30.06.2005 on the basis of the judgment of the learned Maharashtra Administrative Tribunal, Mumbai dated 21.11.2015 vide which the original Application No. 876/2001 filed by this petitioner challenging his reduction of pension by 15%, has been allowed. By the same judgment, the learned Tribunal set aside the Departmental Enquiry against the petitioner and concluded that the petitioner would be treated to be in employment with continuity and would be entitled to full benefits in every respect and deductions, if any made by the employer, shall be refunded to him. Learned A.G.P submits that he has no instructions as to whether the judgment of the Tribunal dated 21.11.2015 has been challenged by the respondents in this Court.

5. It cannot be ignored that the petitioner had moved this petition for seeking continuance in employment pursuant to the order of punishment dated 23.01.2004. He had filed proceedings before the learned Maharashtra Administrative Tribunal for questioning reduction of his pension, which is a

different cause of action. By the said judgment of the learned Maharashtra Administrative Tribunal, he has been granted monetary benefits and his Departmental Enquiry has been quashed and set aside.

6. Considering the above, this petition is rendered infructuous and stands disposed of as the grievance of the petitioner has been redressed, by the order dated 29.06.2005 passed by the respondents restoring the petitioner in employment and granting him continuity.

7. In so far as the unpaid salary is concerned, which is payable in view of the judgment of the learned Maharashtra Administrative Tribunal, the respondents would be obliged to implement the said judgment in the event it is not yet challenged in this Court. So also, the petitioner would not be remedy-less as he can seek execution of the directions of the learned Maharashtra Administrative Tribunal pursuant to the order dated 21.11.2015.

8. As the said judgment is not a subject-matter before this Court, the Civil Application is disposed of with liberty to the petitioner to avail of a remedy as is permissible in law for seeking execution of the judgment of learned Maharashtra Administrative Tribunal dated 21.11.2015.

9. Pending Civil Application No.482 of 2010 does not survive and stands disposed of.

(SUNIL K. KOTWAL)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE