

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1055 OF 2016
IN
WRIT PETITION NO.4078 OF 2011**

Dr. Ramesh Ratanlal Asawa ..Applicant

IN THE MATTER BETWEEN

Dr. Ramesh Ratanlal Asawa ..Petitioner

Versus

State of Maharashtra and others ..Respondents

**ALONGWITH
WRIT PETITION NO.5492 OF 2012**

Vijay Punju Khairnar ..Petitioner

Versus

State of Maharashtra and others ..Respondents

**ALONGWITH
WRIT PETITION NO.5961 OF 2011**

M. C. Thomas ..Petitioner

Versus

The State of Maharashtra and others ..Respondents

**ALONGWITH
CIVIL APPLICATION NO.2635 OF 2014
IN
WRIT PETITION NO.4078 OF 2011**

Shri. R. T. Kamble ..Applicant

IN THE MATTER BETWEEN

Dr. Ramesh Ratanlal Asawa ..Petitioner

Versus

State of Maharashtra and others ..Respondents

Mr. S. C. Naidu i/by Shaikh Nasir Masih for the Applicant.

Ms. Kavita N. Solunke, AGP for the Respondent Nos.1 to 3.

Mr. Mihir Joshi for the Respondent No.8.

Mr. Jaivardhan Singh i/by Ms. Pooja V. Thorat for the Respondent Nos.9 & 10.

CORAM : B. R. GAVAI &

SANDEEP K. SHINDE, JJ.

DATE : 17th NOVEMBER, 2017

PC.

1] The Civil Application has been filed by the Applicant/Petitioner for grant of retiral and consequential benefits including Pension, Provident Fund, Gratuity and Leave Encashment etc. Mr. S. C. Naidu the learned counsel for the Applicant/Petitioner submits that in view of Rule 130(1)(c) of the Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as "MCSR Rules"), the Applicant/Petitioner at this moment presses only for full pension.

2] The main Petition challenging the initiation of proceedings against the Applicant/Petitioner has been admitted and is pending before this Court for adjudication. Upon superannuation, the Applicant/Petitioner is being paid pension at the rate of 90% of the pension that is applicable to him.

3] Perusal of Rule 130(1)(c) of the MCSR Rules, which has been reproduced by the Respondents in their affidavit itself would reveal

that where departmental or judicial proceedings are pending (1) (a) in respect of a Gazetted or Non-gazetted Government servant, the provisional pension shall be equal to the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government servant. The Applicant/Petitioner was under suspension when he was superannuated, as such later part of the MCSR Rules would not be applicable in the present case.

4] In that view of the matter, the Rule is partly made absolute. The Civil Application is allowed by directing the Respondents to pay provisional pension to the Applicant/Petitioner equal to the maximum pension which would have been admissible on the basis of his qualifying service upto the date of his retirement. The arrears shall be paid within a period of three months from today.

[SANDEEP K. SHINDE, J.]

[B. R. GAVAI, J.]