

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

WRIT PETITION NO.4054/2015

Pravin Digambarrao Dode

...Versus...

State of Maharashtra, through Secretary for Education & Technical Education
Department, Mantralaya, Mumai 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 V.A. Thakare, AGP for respondent nos.1 to 3

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

DATE : 17.03.2017

None appeared for the petitioner in the morning session. None appears for the petitioner in the afternoon session. We have perused the writ petition and have heard the learned Assistant Government Pleader for the respondent nos.1 to 3.

By this petition, the petitioner challenges the communication of the respondent no.2 – District Vocational Education and Training Officer, Amravati dated 3.3.2015 informing the petitioner that the petitioner had not completed ten years of pensionable services and had also resigned from the job and hence, he was not entitled to the pensionary benefits. The petitioner has sought a direction against the respondents to grant the pensionary benefits to the petitioner.

According to the petitioner, the petitioner was appointed on 11.10.1991 as a full-time lecturer in the respondent no.4 – College. According to the petitioner, he had tendered his resignation on 12.2.2003 that was accepted on 13.2.2003 and he was relieved from the post on which he was working. After several years from his retirement from the services, the petitioner applied to the respondents for pensionary benefits. The respondent no.2 informed the petitioner by the impugned communication, dated 3.3.2015 that the petitioner was not entitled to pensionary benefits, as he had not completed the qualifying service for grant of pensionary benefits and had resigned from his services, as a result of which his past services were forfeited.

Shri Thakare, the learned Assistant Government Pleader appearing for the respondent nos.1 to 3 states by referring to the affidavit-in-reply filed on behalf of he respondent no.2 that the petitioner was appointed temporarily in the year 1991-92 as he was not having the requisite experience. It is stated that after the petitioner acquired the experience of three years, his services were regularized from 17.2.1993. It is stated that regular approval is granted to the petitioner's appointment from 17.2.1993 and the petitioner was not regularly appointed on 11.10.1991, as claimed by the petitioner. It is stated that since the petitioner has tendered his resignation and has resigned from the services, in view of Rule 30 read with Rule 46 (1) of the Maharashtra Civil Services (Pension) Rules, 1982, the petitioner would not be entitled to pensionary benefits. It is stated that it is held by this Court in the judgment, reported in **2008 (5) Mh.L.J.**

211 that a Government Servant, who resigns from the services, cannot be granted the benefit of pension as his resignation cannot be treated as his retirement. It is stated that in the aforesaid reported decision, this Court had considered the judgment of the Hon'ble Supreme Court, reported in **AIR 2004 SC 2135**. It is stated that the judgment of the Hon'ble Supreme Court, reported in **2005 (8) SCC page 825** would also apply to the case in hand.

On hearing the learned Assistant Government Pleader and on a perusal of the provisions of the Maharashtra Civil Services (Pension) Rules, 1982 as also the judgments referred to herein above, it appears that the relief sought by the petitioner cannot be granted. Admittedly, the petitioner had resigned from services and due to the resignation of his services, his past services stood forfeited. In view of the forfeiture of the past services of the petitioner, the services of the petitioner could not have been considered for grant of pensionary benefits. The judgment referred to herein above and relied on by the learned Assistant Government Pleader would apply to the case in hand with full vigour.

Hence, for the reasons aforesaid and for the reasons recorded in the judgment, reported in **2008 (5) Mh.L.J. 211**, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE