

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

946 WRIT PETITION NO. 13460 OF 2017

RAVINDRA ARJUNRAO TANDALE

..PETITIONER

VERSUS

MAHARASHTRA STATE ELECTRICITY
DISTRIBUTION COMPANY LTD
THROUGH ITS MANAGING DIRECTOR

..RESPONDENT

...

Mr. Ajay S. Deshpande, Advocate for the Petitioner
Mr. P. N. Kutti, AGP for Respondent-State.
Mr. Uday S. Malte, Advocate for Respondent No.2.

...

**CORAM : S. V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.**

DATED : 8th JUNE, 2018.

PER COURT:-

1. The petitioner has filed the present writ petition with following prayer:

"B) The respondents may kindly be directed to release pension and pensionary benefits including Gratuity, Provident Fund, Leave Encashment and Medical Leave Encashment, difference between salary and subsistence allowance paid during 27.4.2015 to 30.6.2017 in favour of the petitioner, without any further delay."

2. Mr. Deshpande, learned counsel submits that on attaining the age of superannuation, the petitioner has retired and is relieved. The order to that effect is passed by the authority on 30.06.2017.

(2)

3. The learned counsel submits that after retirement, there is no question of respondent conducting any Departmental Enquiry. The learned counsel further submits that the petitioner has not been convicted for any offence. In view of that, the petitioner is entitled for pensionary benefits such as gratuity, provident fund, leave encashment and medical leave encashment, so also differences between salary and subsistence allowances paid during the 27.4.2015 to 30.6.2017. The learned counsel submits that, though the petitioner is retired almost a year back, the said benefits are not accorded to the petitioner.

4. Mr. Malte, the learned counsel for the respondent submits that the criminal case under the provision of the Anti Corruption Act has been filed against the petitioner. The petitioner has been relieved from service that does not mean that the petitioner has retired from service. The learned counsel relies upon the Note 4 Regulation 17 of the M.S.E.D.C.L. Employees Service Regulations, 2005. The learned counsel submits that the Note is explicitly clear and such an employee is not permitted to retire on reaching his date of compulsory retirement, but is retained in service. The office order dated 30.06.2017, states that he stands relieved from service and does not mean that he stood retired.

5. The learned counsel in alternate submits that, even then, the petitioner is not entitled for pensionary benefits, axiomatically as criminal case is pending against him and Rules are laid down under the M.S.E.D.C.L. Employee Service Regulation, 2005, governing the said aspects.

6. The petitioner has been permitted to retire under the office order dated 30.06.2017. The said Note 4 would come into play after the employee is not permitted to retire on his reaching the date of compulsory retirement but is retained in service, until the enquiry is concluded and final order passed thereon by the Competent Authority. In the present case, the petitioner has already retired from the service pursuant to the office order and now no departmental enquiry can be proceeded against him. In view of that, Note 4 as relied upon would not apply.

7. We have considered the submissions, it is not disputed that the petitioner has attained the age of superannuation.

8. The Executive Engineer (Distribution), Degloor Division, as under office order dated 30.06.2017 has passed the following order:

"Consequent on attaining the age of superannuation Mr. Ravindra Arjunrao Tandale, Assistant Engineer (Distribution), 2800693, working in Dharmabad Sub-Division

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shall stand retired from the service of the MSEDCL w.e.f. 30 June 2017 in terms of Regulation No.17 of MSEDCL Employees Regulations.

Accordingly Mr. Ravindra Arjunrao Tandale, Assistant Engineer (Distribution) will stand relieved on from the service w.e.f. 30 June 2017 and retirement benefits payable are subject to decision in Police Station, Dharmabad, 8498 - 6, Guran 36/2015, pending before the Honble Court and ACB, Nanded, from any other litigation which is filed or which may be filed by or on behalf of MSEDCL or concerned employee."

Reading the office order, it is manifest that the petitioner stood retired from service of M.S.E.D.C.L. with effect from 30.06.2017 and stood relieved from the service with effect from 30.06.2017. The office order in entirety would have to be read. Reading the office order in its entirety, there is no ambiguity that the petitioner on attaining the age of superannuation stood retired from the service and consequently relieved. The office order further states that the retirement benefits payable to the petitioner are subject to the decision in the criminal case pending before the court.

9. The petitioner stood retired. It is not disputed that once the petitioner stood retired, the departmental enquiry cannot be proceeded with.

10. In light of the above, the petitioner would be entitled for the retiral benefits in

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accordance with provisions of the M.S.E.D.C.L. Employees Service Regulations, 2005.

11. In the light of above, we pass the following order:

ORDER

(i) The respondent shall release the pensionary benefits to the petitioner as admissible and permissible under the M.S.E.D.C.L. Employees Service Regulations, 2005 expeditiously, preferably within three months.

12. Writ Petition accordingly stands disposed of. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE