

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

WRIT PETITION NO. 4647 OF 2014

The State of Maharashtra	...Petitioners
Versus	
Vivek Vishwanath Rane	...Respondent

Mr. A. I. Patel – AGP for Petitioners – State.
Ms Lata Patne i/b. Mr. Vinod Joshi for Respondent.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.
DATE : 17 JULY 2018**

ORAL JUDGMENT :

- 1] Heard the learned counsel for the parties.
- 2] Rule. With the consent of and at the request of the learned counsel for the parties, Rule is made returnable forthwith.
- 3] The challenge in this petition is to the judgment and order dated 13th August 2013 made by the Maharashtra Administrative Tribunal (MAT) allowing Original Application No. 476 of 2012 instituted by the respondent. In the impugned judgment and order, the MAT, has issued the following directions:-

“8. The Applicant's pay must be fixed as per the

recommendations of the Sixth Pay Commission and he must be paid all his dues accordingly. The Applicant will be entitled to two advance increments available to Professors who acquire Ph.D degree as decided by this Tribunal in O.A. No. 1330/2009 in case of Dr (Mrs) Bapat on the basis of judgment of Hon. Bombay High Court in Writ Petition No. 1084/2003. The Applicant will also be entitled to get his pay refixed in the same scale of pay on promotion to the post of Director. The Applicant has not been able to prove that the post of Director carries a higher pay scale compared to the pay scale of the post of Professor. In fact, the Respondent has placed a copy of G.R. dated 11.12.1999 shows that the post of Director is actually "Principal" and both Principal and Professor have the same scale of pay.

9. All the dues before retirement and after retirement should be calculated as discussed in the preceding paragraph and paid to the Applicant within a period of three months. Thereafter, the Applicant may make a claim for interest on delayed payment, decision on which must be communicated to the Applicant within a further period of three months. The Original Application is disposed of accordingly. There will be no order as to costs."

4] Mr. A. I. Patel, the learned AGP for the State submits that since two departmental enquiries were pending against the respondent, the petitioners were entirely justified in withholding advance increments or awarding the respondent arrears in terms of the pay commission recommendations. Mr. Patel points out that ultimately, at least in one of the departmental enquiries penalty of

recovery of 2% of the pension for six months came to be imposed upon the respondent. He submits that the impugned judgment and order made by the MAT without taking into consideration these vital circumstances. For these reasons, Mr. Patel submits that the impugned judgment and order warrants interference.

5] Ms Patne, the learned counsel for the respondent submits that the respondent retired as a Director of the Institute of Science, Mumbai, on 30th June 2008 despite having a brilliant academic career, charge sheets levelling frivolous charges came to be issued to the respondent. The departmental enquiries were unnecessarily prolonged for an unreasonable duration of over 11 years. She points out that till date there is no clarity as to whether the departmental action has attained finality or not. She points out that only a minor penalty of recovery of 2% of pension for six months was proposed but even that is yet to be finalised. In such circumstances, Ms Patne points out that there is no infirmity whatsoever in the view taken by the MAT that the petitioners were not at all justified in withholding the benefits claimed by the respondent in his Original Application before the MAT. She points out that there is

absolutely no jurisdictional error or any error at all in the view taken by the MAT and therefore the petition may be dismissed.

6] Rival contentions now fall for our determination.

7] We have perused the record as well as the impugned judgment and order. According to us there is no good ground made out to interfere with the impugned judgment and order.

8] Mr. Patel, the learned AGP is not right in his submission that the MAT has not considered the contentions which have now been made before us by Mr. Patel. The MAT, was very conscious that the two departmental enquiries which were stated as pending against the respondent.

9] The record indicates that the departmental enquiries were in relation to charges that did not even remotely involved any question of moral turpitude. The charges related to alleged incorrect fixation of pay in relation to three staff members, not effectively guiding Ph.D. students and not taking classes while working as Director of the Institute. In respect of such charges which can hardly be

treated as very serious charges, the departmental enquiries continued for an unreasonable period of almost 11 years. On the aspect of pay fixation, it transpired that nothing was really wrong except that the sanction of the Directorate of Higher Education was wanting. Ultimately, even the penalty proposed was that of recovery of 2% of the pension for six months. There is no clarity as to whether any approval was finally granted for imposition of such penalty.

10] In the aforesaid circumstances, there was no justification whatsoever in withholding the benefits claimed by the respondent in his Original Application before the MAT. The MAT, has quite rightly allowed the Original Application instituted by the respondent and there is really no jurisdictional error or any other error so as to warrant any interference. This petition is therefore dismissed. Rule is discharged. There shall be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

Sunita
Kishandas
Chandka

CHANDKA

Digitally signed by
Sunita Kishandas
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