IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2766 OF 2014

Shamsunder Balwant Parab : Petitioner.
Versus
The Maharashtra Hsg. Area and
Development Authority and ors. : Respondents.

Mr. Gautam S Hiranandani for the Petitioner.
Mrs. Sharmila U Deshmukh for the Respondent No.1.

CORAM : R. M. SAVANT &
K. K. SONAWANE, JJ.
DATE : 05th SEPTEMBER 2018

P.C.

1 The denial of pension to the Petitioner has resulted in filing of the above Writ Petition for claiming the relief of quashing and setting aside the communication dated 01/04/2014 addressed by the Under Secretary, Housing Department to the Secretary, Maharashtra Housing and Area Development Authority informing the said addressee as to why the Petitioner is not eligible for the grant of pension.

2 The Petitioner was initially appointed by an order dated 11/11/1977 on the Work Charge Establishment on temporary basis for the works of maintenance at Sion-Koliwada Partiksha Nagar by the then Bombay Building Repairs and Reconstruction Board. In the year 1976 the Maharashtra Housing Area and Development Act came into force. On the advent of the said Act the affairs of the various regional boards which were functioning in the

State came to be regulated by the provisions of the said Act. In so far as the erstwhile employees of the Bombay Board are concerned, Section 22 of the MHADA Act provided that the whole time employees of the erstwhile Bombay Board became the employees of the Authority and were entitled to the same terms and conditions of services as were available to them at the time of the MHADA Act coming into force. The logical consequence of the said provision was that the service conditions of the employees who were working with the Bombay Board came to be protected meaning thereby that in case they were enjoying the benefits of pension, then they would continue to enjoy the said benefits even after they became employees of the Authority.

3 In the instant case there can be no dispute about the fact that the Petitioner was not a permanent employee of the Board so as to come within the mischief of the provisions of Section 22 of the MHADA Act so as to be entitled to the protection of his service conditions in the matter of payment of pension. It is an undisputed position that the Petitioner came to be appointed on the regular temporary establishment of the Authority in the year 1983. It seems that the Petitioner was confirmed later on. However the defining aspect in so far as the claim of the Petitioner is concerned, is that the Petitioner was not a confirmed employee of the Bombay Board at the time when the service of the employees of the Board were taken over by the Authority on the advent of the MHADA Act. Since the employees of the Authority were entitled to the

Contributory Provident Fund Scheme, the Petitioner was also given benefit of the said Scheme and on his superannuation the Petitioner has also been paid the accumulated amount under the said Scheme which the Petitioner has accepted, which acceptance the learned counsel sought to justify as being without prejudice to the rights of the Petitioner.

4 In our view, having regard to the facts as aforestated especially the fact that the Petitioner was not eligible for pension whilst in the service of the Bombay Board, no relief can be granted to the Petitioner in our writ jurisdiction under Article 226 of the Constitution of India. The above Writ Petition is accordingly dismissed.

[K. K. SONAWANE, J] **[R.M.SAVANT, J]**

Laxmikant
Gopal
Chandan

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