

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

**CONT. PETITION NO.74 OF 2019
IN WP/413/2007**

**LAXMAN PANDURANG MADHAVPURKAR
VERSUS
PIYUSH KHARE THE CHIEF GENERAL MANAGER AND ANOTHER**

Mr. A.V.Thombre, Advocate h/f Mr. S.S.Thombre, Advocate for
the petitioner

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 06.02.2019

P.C. :-

1. Heard the learned Counsel for the petitioner.
2. The petitioner is before this Court with a grievance that the order of this Court dated 22.08.2017 in Writ Petition No.413 of 2017 is not complied with. Copy of the order of this Court is placed on record at Exh.'B'. Perusal of the order shows that a challenge was raised to a communication and then it was the submission before this Court that the respondents ought to have counted past military service rendered by the petitioner from 23.01.1964 to 22.02.1973 as qualifying service for civil pension. By referring to the relevant provisions, this court was pleased to observe that the initial obligation is cast upon the employer/authority issuing the appointment order to require in writing the Government Servant to exercise the option. Then the Division Bench further observed that in the present matter, the Division Bench failed to find out such an option provided to the petitioner by the respondent authorities. This court also in specific terms observed that it will not be possible for this court in writ jurisdiction to come to a conclusion about the letter dated 20.10.1982 and give a conclusive finding. However,

the Division Bench in the operative order, while quashing and setting aside the impugned communication directed respondent Nos.2 and 3 to consider past service rendered by the petitioner with military, as qualifying services for the purpose of computing pension .

3. The learned Counsel invited our attention to the representations submitted to the authority dated 23.09.2017, 17.06.2018, 29.08.2018 and 19.11.2018. Now the Division Bench in its order though directed respondent No.2 and 3 to consider the past service rendered by the petitioner with military as qualifying service for the purpose of computing pension, there is no stipulation of period. As such the submission of the learned counsel that the delay by the authorities in non-compliance of the order of this Court cannot be accepted. At the same time considering the factum of age of the petitioner i.e petitioner, who is of 74 years of age, meaning thereby, in his advanced stage of life, the expectation of the petitioner having an early decision on the claim of family pension cannot be said to be an unjustified expectation. Considering this only aspect, we dispose the petition with directions to the respondents to take appropriate steps in view of the order of this Court dated 22.08.2017 as early as possible.

4. With these directions the contempt petition is disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]