

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

WRIT PETITION NO.1013 OF 2019

**DEVIDAS VASANT DAHIVAL
VERSUS
THE CHIEF EXECUTIVE OFFICER ZILLA PARISHAD AHMEDNAGAR AND
OTHERS**

Mr.R.S. Deshmukh, Advocate for the petitioners.
Mr.S.S. Dande, AGP for respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.
DATED : 23.01.2019**

P.C. :-

1. Heard learned Counsel for the petitioner. The petitioner is before this Court with a prayer that the necessary directions be issued to respondent No.1 – the Chief Executive Officer, Zilla Parishad, Ahmednagar for taking immediate decision on the pending representation dated 12.03.2018 within specified period. Perusal of the representation dated 12.03.2018 shows that the said representation runs in more than 70 pages and the grievance of the petitioner was non-grant of proper family pension to the members of the deceased employee Shri V.R. Dahiwal, who happens to be father of the

petitioner. The perusal of the documents placed on record further shows that the petitioner approached the Human Rights Commission for grant of family pension and other entitlement like gratuity etc. with interest. By order dated 27.05.2015 the learned Member of the Maharashtra State Human Rights Commission observed that as the issue relates to service matter, the Commission was unable to entertain the complaint as per Regulation 12(f) of the Maharashtra State Human Rights Commission (Procedure) Regulation, 2011. The complaint is filed and the case is closed.

2. The perusal of the record further shows that the petitioner approached the learned Lokayukta by submitting complaint No. NA/COM/2811/2016(T-6) and the same was disposed by order. It would be useful for our purpose to refer to the relevant text of the order :-

"3. The complainant's grievance is in respect of pensionary benefits of this father and family pension of his deceased mother and also the pension available to the complainant after death of his mother.

4. The claims of deceased Shri Vasant Ramchandra Dahival have not been settled because his service book is not complete. His original service book is missing and fresh service book is being constructed on the basis of available record. It is submitted by the Chief Executive Officer, Zilla Parishad, Ahmednagar that the total amount payable to the complainant on account of pension, family pension and other retiral benefits could be around Rs.3,14,000/-. It is further submitted that there is recovery of Rs.3,87,402/- on account of irregularities committed by the deceased. At this stage, it may be stated here that the deceased was suspended on two occasions for the alleged misconduct on his part. He was facing charges of misappropriation of Government funds.

5. The family pension available to the wife of the deceased and thereafter to the complainant is very limited, inasmuch as the complainant has been appointed on compassionate ground. According to the Rules, a male child of deceased employee is entitled to pension till the age of 21 years in case he survives his mother. The complainant was appointed in place of his father on compassionate ground at the age of 18 years. Therefore, the question will arise, whether he is entitled to pension from the age of 18 to 21. It is submitted on behalf of the Chief Executive Officer, Zilla Parishad, Ahmednagar that since the complainant has been appointed on compassionate ground at the age of 18, he was not entitled to benefit of pension according to the rule operation, which permits a grant of pension to male child up to the age of 21, if the male child survives the wife of the deceased."

3. It is more than clear from the perusal of the order of the Lokayukta that the learned Lokayukta found merit in the submissions of the Zilla Parishad. Learned Lokayukta also accepted the statement made on behalf of the Zilla Parishad through Officers, who were present for hearing of the matter, that they will examine the case of the complainant as to whether he was entitled to pension from the age of 18 to 21 despite the fact that he was absorbed in the service in place of his father and only on this issue, it was further observed that this has to be resolved by the complainant at the level of Zilla Parishad, Ahmednagar.

4. Thus, without extending the scope as prayed by the petitioner in the representation, in view of observations of the learned Lokayukta, we dispose of the petition with directions to respondent No.1 – Chief Executive Officer, Zilla Parishad, Ahmednagar to adhere to the statement made before the learned Lokayukta and to

undertake exercise of examining the case of the petitioner on the issue as to whether the petitioner is entitled to pension between the age 18 to 21 on the backdrop of the fact that he was absorbed in the service in the place of his father. This exercise be completed as expeditiously as possible and not later than 12 weeks from the date of order.

5. With these directions/observations, the writ petition is disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]