

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12224 OF 2018

Dilip Shankarrao Jagtap. Petitioner

Versus

The State of Maharashtra and others. Respondents

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Mr. V.D. Sapkal, Advocate for the petitioner.

Mr. A.V. Hon, Advocate for respondent No.4.

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CORAM : **S.V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.**

DATE : 25 November 2019.

ORDER :-

. Mr. Sapkal, learned Counsel for the petitioner submits that the petitioner has retired on attaining the age of superannuation on 31.01.2018. Only on the ground that some criminal cases are pending against the petitioner, the pension is not sanctioned. Learned Counsel submits that the criminal cases are not relating to the employment, but are arising because of some village disputes. According to the learned Counsel, the respondents cannot withhold the pension and pensionary benefits. Learned Counsel placed reliance on the judgment of the Apex Court in the case of *State of Jharkhand and others Vs. Jitendra Kumar Srivastava*

and another reported in *AIR 2013 SC 3383* and the judgment of Division Bench of this Court in the case of *Trimbak Ramchandra Sontakke Vs. State of Maharashtra* reported in *2016 (5) ALL.M.R. 343*. Learned Counsel further submits that there is no order by the State Government or appointing authority withholding the pension.

2. Mr. Lakhotiya, the learned A.G.P. submits that the Accountant General has returned back the proposal. The letter dated 5 July 2018 issued by Senior Accounts Officer can be said to be an order. Criminal cases are pending against the petitioner. Provisional pension has been sanctioned to the petitioner.

3. It is true that the pension is hard money of the employee and not a bounty. The pension is regulated by the Pension Rules. Rule 27 of the Maharashtra Civil Services (Pension) Rules provides that the appointment authority may by order in writing, withhold or withdraw pension or any part of it whether permanently or for a specified period, and also order the recovery, from such pension, the whole or part of any pecuniary loss caused to Government, if in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of

his service including service rendered upon re-employment after retirement.

4. In the present case, it is contended by the petitioner that the criminal cases pending against the petitioner are not related to the employment. Moreover, we do not find on record any order directing withholding or withdrawing the pension or any part of it.

5. Apart from Rule 27 of Maharashtra Civil Services (Pension) Rules, no other Rules are pointed out to suggest that the pension can be withheld.

6. In light of the above, there is no propriety in withholding the pension.

7. In case, no order is passed directing withholding the pension as suggested by Rule 27 of Maharashtra Civil Services (Pension) Rules, then the respondents shall release the pension and pensionary benefits to the petitioner, within three months.

8. Writ Petition is accordingly allowed. No costs.

(AVINASH G. GHAROTE, J.)

(S.V. GANGAPURWALA, J.)