

Pradnya Bhogale

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

WRIT PETITION NO. 7639 OF 2014

Ankush Bhujangrao Hotkar

..Petitioner

vs.

State of Maharashtra and Anr.

..Respondents

.....

Mr. Jaybharat N. Kamble for Petitioner.

Ms. Rupali Shinde, AGP for State/Respondents.

.....

**CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.**

DATE : 4 FEBRUARY 2020

P.C.:-

We have heard the learned counsel for the Petitioner and learned Additional Government Pleader appearing for Respondents.

2. By this Petition, the Petitioner has challenged the order passed by the Maharashtra Administrative Tribunal dated 7 May 2014 in Original Application No.158 of 2012 filed by the Petitioner.

3. The Petitioner has filed Original Application with the following prayers :-

“(a) respondents to fix the pay of the applicant as per 6th Pay Commission recommendations and to grant him difference of pay from 1.1.2006 to 31.3.2009 along with interest @ 12% p.a. for delayed payment.

“(b) fix the pension of the applicant as per 6th Pay Commission recommendations and to grant him gratuity and other retirement benefits along with interest @ 12% p.a. for delayed payment.”

4. The Tribunal heard both sides, perused the record and found that the Petitioner was residing in a building taken on rent by the Respondent-State Government. Thereafter, at the instance of the owner, the premises were directed to be derequisitioned. The Government challenged the order of derequisition but did not succeed. Meanwhile, the Petitioner is stated to have entered into an agreement with the developer with consent of the Respondent-State Government. Notices were given to the Petitioner to vacate the premises. Since he did not vacate, he was liable to pay penal rent. The Tribunal disposed of the Application observing thus :-

“The applicant has not vacated the Government premises allotted to him as accommodation for a Government servant, even now, though 5 years have elapsed after his voluntary retirement. This Tribunal has ordered that he has no right to continue therein. He has to handover peaceful possession and pay penal rent as prescribed. Once the same is done and once the departmental action has been concluded, the respondents may take suitable action expeditiously regarding his pending retiral dues including sanction of final pension.”

The view taken by the Tribunal is a possible view.

5. Apart from this position, while the Petition was pending, the Petitioner has been evicted from the premises and as regard the pending penal rent is concerned, the Petitioner has made a representation to the State Government which is not yet decided. In view of the occupation of the Petitioner in the premises has come to an end. The question would be of payment of penal interest and payment of pensionary dues. The Tribunal has clarified that the payment of pensionary dues to the Petitioner would be as per outcome of the Departmental Enquiry. This order was passed as far back in the year 2014 and the departmental enquiry would have been completed by now. If not so, the same shall be completed within a period of six months from today. As regard the representation of the Petitioner is concerned, the decision thereupon be taken by the Respondents-State Authorities as per law.

6. Writ Petition is accordingly disposed of.

(M.S.KARNIK, J.)

(NITIN JAMDAR, J.)