

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) NO. 4099/2019

1. Manohar S/o Laxmandas Lalwani,
Aged about: 52 years,
Occ.-Retired, R/o Plot no. 40,
Dayanand Nagar, Jaripatka,
Nagpur. PETITIONER

// VERSUS //

1. Maharashtra Jivan Pradhikaran,
Express Towers, 4th Floor,
Nariman Point, Mumbai 400021.
2. The Superintending Engineer,
Maharashtra Jivan Pradhikaran,
Temple Road, Civil Lines, Nagpur.
3. The Executive Engineer,
Maharashtra Jivan Pradhikaran,
Water Management Division,
Near Temple Road, Near C.P.
Club, Civil Lines, Nagpur.
4. The State of Maharashtra,
through Secretary, Water Supply
and Sanitation Department,
Gokuldas Tejpal Hospital
Building, Tilak Marg, Mumbai. RESPONDENT(S)

Shri P.D. Meghe, Advocate for the petitioner
Shri D.M. Kakani, Advocate for respondent nos. 1 to 3
Shri D.P. Thakare, AGP for respondent no. 4/State

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 21/12/2020

ORAL JUDGMENT : (PER:- SUNIL B. SHUKRE, J.)

1] Heard. **Rule.** Rule made returnable forthwith.

2] Heard finally by consent.

3] The grievance of the petitioner in this case is that after his application seeking voluntary retirement was accepted, the petitioner stood retired on 31.03.2017 and, thereafter, the petitioner, though should have been paid full pension of Rs.8,540/- on his last drawn basic pay of Rs.17080/-, the petitioner was paid reduced pension of Rs.7740/- per month. The petitioner submits that the petitioner was never informed about the reduction of his salary or reduction of his pension amount before the pension order was issued.

4] In the present case, what we find is that even though the petitioner stood retired on 31.03.2017, no permanent pension order has been so far issued by respondent nos. 1 to 3. There is only provisional pension payment order dated 04.09.2017, which provisionally fixed the pension of the petitioner at Rs.7740/- per month. It appears that this amount of pension has been fixed by considering the reduced salary of the petitioner and if that is so, the petitioner ought to have been given adequate opportunity of hearing before reduced amount of pension was fixed in the matter. Such an order, provisionally fixing pension payable to the petitioner has not been yet finalized even after lapse of more than

three years. We would, therefore, allow this petition by quashing the provisional pension order and issue necessary direction to respondent nos. 1 to 3.

5] Accordingly, the petition is **allowed**. The provisional pension payment order dated 04.09.2017 is hereby quashed and set aside. Respondent nos. 1 to 3 are directed to pay pension to the petitioner by calculating the same on his last drawn basic pay, as per rules within a period of two weeks from the date of order with liberty to the petitioner to consider the issue of payment of reduced amount of pension on the reduced salary, if required, only after giving adequate opportunity of hearing to the petitioner, which would also include grant of personal hearing to the petitioner. We further direct respondent nos. 1 to 3 to pay gratuity to the petitioner in accordance with rules within a period of two weeks from the date of order.

6] Rule is made absolute in the above terms. No costs.

JUDGE

JUDGE