

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

WRIT PETITION NO. 7006 OF 2015

Dy. Conservator of Forests, Akola

vs.

Shri. Bhika Tukaram Ghuge

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. S. B. Bissa, AGP for petitioner.
Shri. Ved Deshpande, counsel for respondent.

CORAM : MANISH PITALE J.

DATED : 09/01/2020

CIVIL APPLICATION NO.2533 OF 2019

This is an application filed on behalf of the respondent seeking release of retirement benefits, including pension, gratuity and other benefits. The learned counsel appearing for the applicant/respondent submitted that since no interim relief has been granted in the writ petition, the petitioner is bound to ensure release of such benefits to the respondent. Attention of this Court was invited to order dated 21/09/2018, whereby Rule was granted and interim relief was rejected.

2. In response, the learned AGP appearing for the petitioner submits that one of the issues that arises in the complaint is, as to whether the petitioner department

can be said to be an “industry” at all. It is submitted that this issue goes to the very root of the matter and that therefore, only after the writ petition is decided can the relief sought in the present application be considered. It is further emphasized that the said crucial issue pertaining to the question as to whether the petitioner department can be said to be an industry is pending for consideration before the Supreme Court and that therefore, any direction for release of benefits as claimed by the respondent will have to wait resolution of the said issue.

3. Having heard the learned counsel for the rival parties, this Court is of the opinion that since interim relief has been specifically rejected by this Court while granting Rule, there should be no impediment for the petitioner to process the proposal for grant of retiral benefits to the respondent and to ensure disbursal of the same, subject to final result of the writ petition. The resolution of the aforesaid issue ought not to deter disbursal of the said benefits to the respondent in the face of positive findings given by the Industrial Court in the impugned judgment and order in favour of the respondent.

4. The learned AGP invited attention of this Court to a letter sent by the office of the Accountant General making a query to the petitioner as to the final result of the pending proceedings. But a perusal of the said letter would show that reference is made to Writ

Petition No. 405/2005 pertaining to an earlier round of litigation between the parties. The said writ petition was admittedly disposed of and thereafter the Tribunal had passed the impugned judgment and order. It is further significant that in pursuance of the judgment and order passed by the Industrial Court, the respondent was granted benefit of regularization and thereafter, he attained the age of superannuation.

5. In this backdrop, the present application is partly allowed. The petitioner is directed to process the proposal for payment of retiral benefits to the respondent and to ensure disbursal of the same to the respondent within a period of three months from today, subject to the result of the writ petition.

6. Liberty is granted to the respondent to approach the petitioner within two weeks to place on record his claim towards retiral benefits.

7. Application is disposed of in above terms.

JUDGE