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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9297 OF 2017**

Dilip K. Odhekar
V/s.

... Petitioner

Maharashtra Jeevan Pradhikaran and ors. ... Respondents

Mr. S.S. Kulkarni for the Petitioner.
Mr. Saurabh Oka i/b Mr. Ajit R. Pitale for Respondent No.1.
Mr. P.G. Sawant, AGP for the Respondent No.2 – State.
Ms Neeta Masurkar for Respondent No.3.

**CORAM : PRASANNA B. VARALE &
N.R. BORKAR, JJ.
DATE : 07.10.2021.**

P.C.

1] Heard the learned counsel for the petitioner.

2] The petitioner was a Junior Engineer with Irrigation Department. The services of the petitioners were compulsorily transferred on the establishment of respondent No1 - Maharashtra Jeevan Pradhikaran. The petitioner opted for voluntary retirement on completion of 23 years of service. The petitioner states that as per then policy of the respondents the full pension is linked with 33 years of qualifying service. It is stated that if the employee has completed less than 33 years of service, then he is entitled to draw pension proportionate to actual years. It is stated that as the petitioner has completed about 23 years of service, he is deprived of full pension as computation of full pension is linked with 33 years of qualifying service.

3] The learned counsel for the petitioner has invited our attention to the document i.e. Office Memorandum issued by Central Government dated 6.4.2016 captioned under "Delinking of qualifying service of 33 years for pre 2006 Pensioners for Revising Pension and submitted that there is reference to certain orders passed by the Central Administrative Tribunal, Principal Bench, New Delhi and the orders issued for implementation of recommendation of VIth Pay Commission, the pension of Government servants retired/retiring on or after 1.1.2006 has been delinked from qualifying service of 33 years in paragraphs 2 and 4 of the Office Memorandum. It is submitted that there is also reference to the order passed by the Central Administrative Tribunal, Ernakulam Bench dated 16.8.2013.

4] It may not be necessary for us to refer to other details except paragraphs 5,6 and 7 of the Office Memorandum dated 6.5.2016. The same read as under:

"5. In accordance with the order issued in implementation of the recommendation of the 6th CPC, the pension of Government servants retired/retiring on or after 1.1.2006 has been delinked from qualifying service of 33 years. In OA No.715/2012 filed by Ski.M.O. Inasu, a pre-2006 pensioner, Hon'ble CAT, Ernakulam Bench, vide its order dated 16.8.2013 directed that the revised pension w.e.f. 1.1.2006 under para 4.2 of OM dated 1.9.2008 would not be reduced based on the qualifying service of less than 33 years. The appeals filed by the Department of Revenue in the Hon'ble High Court of Kerala and in the Hon'ble Supreme Court have also been dismissed. Similar orders have been passed by the Hon'ble CAT/High Court in

several other cases also.

6. The matter has been examined in consultation with the Ministry of Finance (Department of Expenditure). It has now been decided that the revised consolidated pension of pre-2006 pensioners shall not be lower than 50% of the minimum of the pay in the Pay Band and the grade pay (wherever applicable) Corresponding to the pre-revised pay scale as per fitment table without pre-rata reduction of pension even if they had qualifying service of less than 33 years at the time of retirement. Accordingly, para 5 of this Department' OM of even number dated 28.1.2013 would stand deleted. The arrears of revised pension would be payable with effect from 1.1.2006."

7. Ministry of Agriculture, etc. are requested to bring the contents of these orders to the notice of Controller of Accounts/Pay and Accounts Officers and Attached and Sub-ordinate Offices under them for revising the pension of all those pre- 2006 pensioners who had rendered less than 33 years of qualifying service at the time of retirement in the manner as indicated above on top priority. Revised Pension Payment Orders in all these cases may also be issued immediately."

5] The submission is all employees of the respondent No.1 including the petitioner are situated at par with the Central government employees as well as State government employees. It is submitted that in view of above referred Office Memorandum, the representation was submitted to the respondent No.2 - State, i.e., Principal Secretary, Water Supply and Sanitation Department, Government of Maharashtra and a copy of said representation was forwarded to the Member Secretary of respondent No.1- MJP. The said

copy of representation is annexed at Exhibit-F to the petition.

6] The representation was submitted to the respondents in the year 2016. The respondents have not filed affidavit-in-reply in the matter though it is filed in the year 2017. Considering these facts, the State Government is directed to consider the present petition as representation of the petitioner and to take a decision on the issue raised in the petition, as expeditiously as possible and preferably within a period of 6 months from the date of receipt of copy of this order.

7] With this direction, Writ Petition is disposed of.

(N.R. BORKAR, J.) (PRASANNA B. VARALE, J.)