

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

WRIT PETITION 4021 OF 2021

Prakash Raksu Mogare,
aged about 61 yrs, Occ. Retired,
r/o. At post Mohapa, Tahsil Kalmeshwar,
District Nagpur
.....**PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
Department of Finance,
Mantralaya, Mumbai 32
through its Principal Secretary
2. The Director of Municipal Administration,
Mantralaya, Mumbai 32
3. The District Administrative Officer &
President of Promotion Committee,
Collector Office,
Civil Lines, Nagpur
4. Municipal Council Mohapa,
Tahsil Kalmeshwar,
District Nagpur, through
its Chief Officer

.....**RESPONDENTS**

Mrs. R.D. Raskar, counsel for petitioner.
Mr. N.S. Rao, AGP for respondents 1 to 3/State.
Mr. U.K. Bisen, counsel for respondent 4.

CORAM: **ROHIT B. DEO AND ANIL L. PANSARE, JJ.**
DATE: **26th AUGUST, 2022.**

ORAL JUDGMENT: (Per : Rohit B. Deo, J.)

The petitioner was working as Sweeper/Safai

Jamadar on the establishment of respondent 4 - Municipal Council, Mohapa, Tahsil Kalmeshwar, District Nagpur.

2. The petitioner suffered physical disability and was constrained to seek voluntary retirement vide application dated 31.10.2015. The request for voluntary retirement was accepted and the petitioner was relieved from duty with effect from 31.3.2016.

3. The pension case of the petitioner was not processed nor was the gratuity payable to him paid.

4. The petitioner was constrained to approach this Court in Writ Petition 6385/2016, which was partly allowed and disposed of with a direction to the Municipal Council to look into the petitioner's representation and take a suitable decision within a period of four months from the date of the judgment which was rendered on 16.3.2017.

5. It was only after the direction issued by this Court that the pension case was processed. While the petitioner was paid pension, the pension determined was not in accordance with the

Government Resolution dated 1.3.2019 which made the pay scale prescribed by the 7th Pay Commission applicable to the employees of the Municipal Council, who retired after 1.1.2016.

6. The petitioner preferred an application dated 21.7.2020 requesting the Municipal Council to release the arrears of pension and other service benefits in terms of the Government Resolution dated 1.3.2019. The said application went unheeded and the petitioner was impelled to submit further applications dated 23.7.2020 and 12.10.2020. The inaction and the apathy of the Municipal Council has forced the petitioner to approach this Court again.

7. Mrs. Sadhana Chandrahas Patil, the Chief Officer of Municipal Council has filed affidavit in response dated 24.8.2022.

8. The Chief Officer has averred that communication dated 30.3.2022 was addressed to the petitioner asking him to prefer an application in the prescribed format. The Chief Officer avers that the petitioner has not submitted the application in the prescribed format. The next relevant averment in the affidavit in response is that the Municipal Council issued communication

dated 12.4.2022 requesting the respondent 2 - Director of Municipal Administration to release the funds for making payment to the superannuated employees. Finally, the Chief Officer avers that the Municipal Council does not have sufficient source of income.

9. We strongly disapprove of the cavalier and the insensitive approach of the Municipal Council. The petitioner, who is disabled and superannuated as Sweeper is forced to approach this Court twice for redressal of his legitimate grievance. We note that it is for the first time in March, 2022 that a stand is taken by the Municipal Council that the petitioner is required to submit an application in the prescribed format. We are shocked, to put it conservatively.

10. Be that as it may, there is no dispute that the petitioner is entitled to the benefits of the 7th Pay Commission in accordance with the Government Resolution dated 1.3.2019. The Municipal Council is not disputing its liability to pay the arrears. On the basis of instructions, the learned counsel for the Municipal Council Mr. U.K. Bisen states that the entire arrears due and payable till 31.8.2022 shall be paid on or before 30.11.2022. We

accept the statement as an undertaking to this Court. It is further stated by Mr. U.K. Bisen, again on the basis of instructions received, that the balance amount of arrears shall be paid in June, 2023.

11. While we are disposing of the petition, on the basis of the statement recorded supra, we would be failing in our duty and indeed shutting our eyes to the plight of the petitioner, if we do not compensate the petitioner, to the degree possible. As noted supra, the petitioner is forced to approach this Court twice, for redressal of just grievance. We therefore, direct the Municipal Council, Mohapa to pay the petitioner an amount of Rs. 50,000/- (Rupees Fifty Thousand) as litigation cost and compensation. The said amount shall be paid within the next two weeks, failing which the Registry shall initiate appropriate coercive action. The petition is disposed of in the aforestated terms.

(ANIL L. PANSARE, J.)

(ROHIT B. DEO, J.)