

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

WRIT PETITION NO.3568/2010

Laxminarayan Kishorilal Gupta,

... Petitioner

- Versus -

State of Maharashtra and others

...Respondents

Mr. C. K. Bade, Advocate for Petitioner.

Mr. A. A. Madiwale, Assistant Government Pleader for
Respondent No.1

Mr. Anup Parihar, Advocate for Respondent Nos. 2 & 3.

CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.

DATE : 4 MAY 2022

P.C. :

The Petitioner was an employee of Respondent No. 2 - Nagar Parishad, Gondia. The Petitioner retired on superannuation on 31 December 2002 and the impugned order came to be passed on 19 November 2009, directing recovery of ₹. 1,19,391/- from the pensionary benefits of the Petitioner. Thereafter, a communication was issued to the District Account Officer that an amount of ₹.46,430/- be

recovered from the Petitioner. The Petition was filed challenging said recovery and for direction that monthly pension be paid to the Petitioner.

2. While issuing show cause notice on 14 December 2010, the Division Bench of this Court has observed that as to why the disciplinary action should not be directed against Respondent No. 2 - Chief Officer, Nagar Parishad, Gondia for not following the principles of natural justice.

3. No reply affidavit is filed by the Nagar Parishad, Gondia. The replies have been filed by Respondent Nos. 5 and 6.

4. In this Petition, the Petitioner has asserted that the entire action of penalty and recovery of pensionary benefits for 7 years after his retirement was without giving any opportunity by Respondent No.1. This assertion has gone uncontroverted. No reply is filed in spite of the fact that the interim relief was granted on the ground of breach of the principles of natural justice. Therefore, the assertion of the Petitioner will have to be accepted and accordingly, the Petitioner is entitled to succeed as regards the recovery and the order of the punishment.

5. As regards the pensionary benefits are concerned, Respondent Nos. 5 and 6 have stated that no orders have been passed by them to withhold the pensionary benefits. It was also denied by Respondent No. 5 that pensionary benefits have been stopped and it is further stated that the pension is being regularly drawn.

6. In light of the stand taken, it is clear that there is no impediment in the way of the Petitioner. It seems that the pensionary benefits as may be due in law are being regularly drawn. Accordingly, the Writ Petition is allowed in terms of prayer clause 8(i).

7. Rule is made absolute in above terms. No order as to costs.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)

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