

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

Writ Petition (WP) No. 3798/2018
WITH
Civil Application (CAW) No. 666/2021

Smt. Manisha Mahadeo Gedam

...Petitioner

Versus

Zilla Parishad, Gadchiroli and ors.

...Respondents

Ms. Dr. R.S. Sirpurkar, Advocate for the Petitioner

Ms. Shamsi Haider, Assistant Government Pleader for the Respondent
No. 5

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

DATED : 06 MAY 2022

P.C.:

The prayers made in the civil application, if granted, would dispose of the writ petition as well. Therefore, both are taken up for consideration.

2. The Petitioner was working as Assistant Administrative Officer with Respondent No. 1 - Zilla Parishad, Gadchiroli. The Petitioner was placed under suspension by the impugned order dated 27 June 2018 in contemplation of an inquiry.

3. On 02 July 2018 while issuing notice in the Petition following order was passed:-

“Heard Ms. R.S. Sirpurkar, learned Counsel for the petitioner.

2. Submission is for alleged misconduct, more than 4 years old, interim suspension has been ordered mechanically.

3. Notice, returnable on 03.08.2018. Ms. N.P. Mehta, learned A.G.P. waives notice for respondent no.5. RPAD/Hamdast service permitted to serve other respondents.

4. Till then ad-interim relief in terms of prayer clause (3).”

The Respondents are served. Thereafter, the matter was pending for completion of the pleadings. In the meanwhile, the Petitioner has superannuated. No inquiry is held till date.

4. The Petitioner has stated in the civil application that inquiry was proposed to be initiated against the various employees including one Prabhakar Thaore who was also not issued any the pensionary benefits on the ground of proposed inquiry. Thereafter, the Respondent No. 2 – Zilla Parishad has released the benefits by issuing no-due/no-objection certificate to Mr. Prabhakar Thaore, however, the Petitioner is not being given the same benefits. It is stated that from 2018 till date the Petitioner was placed under suspension and allowed to superannuate without any inquiry and even reply to the civil application has not been filed in spite of the order of this Court dated 28 January 2022.

5. The learned Counsel for the Petitioner states that not only copy of the writ petition has been served, the copy of the civil application has also been served and also private notice is given to the Respondents.

6. These factual assertions have gone uncontroverted. Situation, therefore, is that similarly situated employee has been given no-due/no-objection certificate. There is no inquiry against the Petitioner till date. It is clear that the Respondents are not going to initiate any inquiry against the Petitioner. The Petitioner has superannuated and his pensionary dues are not being paid. The suspension order is stayed since July 2018. The writ petition and civil application can not be kept pending to the prejudice of the Petitioner.

7. Accordingly, we direct the Respondent No. 4 to issue no-due/no-objection certificate to the Petitioner and the Respondent Nos. 2 and 3 shall release the pensionary benefits of the Petitioner within three weeks. To grant one more opportunity to the Respondents, we direct that these directions will come into effect from 17 June 2022.

8. In the light of this order and the fact that the impugned order of suspension has lost its efficacy upon superannuation of the Petitioner, both the civil application and writ petition are disposed of.

9. Office of the Government Pleader and the Petitioner will inform this order to the Respondent – Zilla Parishad.

[ANIL L. PANSARE, J.]

[NITIN JAMDAR, J.]

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