

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.28/2022

Vijay S/o Mahadeorao Dekate ... Petitioner

- Versus -

The State of Maharashtra and others ... Respondents

Mr. G.M. Shitut, Advocate for the Petitioner.

Mr. A.S. Fulzele, Additional Government Pleader for Respondent
No.1.

Mr. G.K. Bhusari, Advocate for Respondent Nos.2 and 3.

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

DATE : 5 APRIL 2022

P.C. :

Heard learned Counsel for the parties.

2. The Petitioner has sought unpaid salary for the months of April, May, August and September of the year 2021 and arrears of Seventh Pay Commission.

3. The petition was filed on 15 December 2021. Notice was issued on 5 January 2022. Matter was listed on board on 31 January 2022 where the Court noted that Respondent Nos.2 and 3 were served, they were not present nor any reply was filed on their behalf. Thereafter when the petition came on board on 25 February 2022, following order came to be passed:-

“None for Respondent Nos.2 and 3.

2. On 5 January 2022 notice was issued to the Respondent No.3. Notice has been served. The Petition came up on 31 January 2022 wherein the Court adjourned the Petition by a period of two weeks to give one more chance to Respondent Nos.2 and 3 putting Respondent Nos.2 and 3 to notice that if no reply is filed the Court will proceed to hear the matter drawing necessary inferences.

3. Not only no reply is filed but the Respondent Nos.2 and 3 even not appeared to contest the matter. The assertions of the Petitioner, therefore, deemed to have been accepted by the Respondent No.3.

4. The Respondent No.3 will deposit the unpaid salary of the Petitioner as claimed for

the months of April 2021, May 2021, August 2021 and September 2021 within a period of two weeks from today in this Court. Other reliefs sought by the Petitioner for withdrawal of the amount would be considered on the next date.

5. The Registry will issue notice with the copy of this order and the Bailiff will ensure that it will be served personally on the Chief Executive Officer so that compliance can be made.

6. Stand over to 17 March 2022.”

Thereafter appearance was filed on behalf of Respondent Nos.2 and 3 and a cheque of ₹ 96,867/- was deposited.

4. The learned Counsel for the Petitioner states that the Petitioner may be permitted to withdraw the amount. Learned Counsel for Respondent Nos.2 and 3 states that disciplinary enquiry is under contemplation against the Petitioner.

5. However, as on date, Petitioner is not placed under suspension nor dismissed from the service. Nothing is shown to us that in this state of affairs Petitioner is not entitled to the dues deposited. Petitioner is permitted to withdraw the amount deposited by Respondent Nos.2 and 3 upon filing an undertaking

that it shall be subject to the outcome of the proposed enquiry and in case it is ultimately directed that the Petitioner should return the amount, Petitioner shall do so without Respondents having to take any proceedings for recovery.

6. The Writ Petition is disposed of in above terms.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)

Tambaskar.