

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO. 1256 OF 2020

Rajkumar s/o Devidasrao Malshetwar

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

.....

Mr. Amit A. Mukhedkar – Advocate for the petitioner

Mr. A. A. Jagatkar – AGP for respondent nos. 1 to 4 / State

.....

CORAM : MANGESH S. PATIL

AND

S. G. CHAPALGAONKAR, JJ.

DATED : 14.06.2023

PER COURT : -

1. Heard the learned advocate for the petitioner as also the learned AGP

2. The petitioner is claiming family pension after death of his wife who was lastly serving as a Matron in M.A. Podar Hospital, Worli, Mumbai.

3. The learned Member of the Maharashtra Administrative Tribunal, by the impugned order by referring to Rule 6 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 has refused to entertain the Original Application filed by the petitioner on the ground of jurisdiction. The reasoning is contained in paragraph no.

SGP

4 and it reads thus:

“4. The cause of action to file O.A. arose at Mumbai, where the deceased employee was serving. The pension sanctioning authority resides at Mumbai. Therefore, this Tribunal has no jurisdiction to entertain the present Original Application. Hence, the present Original Application stands rejected with liberty to the applicant to approach the appropriate forum. There shall be no order as to costs.”

4. Though a detailed reply has been filed by the respondents, most part of it touches the merits, entitlement or otherwise of the petitioner to claim a family pension. Petition merely questions legality of the order passed by the Maharashtra Administrative Tribunal refusing to entertain the Original Application on the ground of jurisdiction. Consequently, neither we will be going into nor have we been called upon to consider the merits of the petitioner's claim.

5. Going by Rule 6 (supra), the application is ordinarily supposed to be filed with the Registrar of the bench within whose jurisdiction the applicant is posted for the time being or the cause of action has arisen, or the respondent or any of the respondents against whom relief is sought, ordinarily resides.

6. The learned Member of the Tribunal has mentioned about accrual of the cause of action in Mumbai where the deceased was last serving and even has considered the place of residence of the

respondents.

7. There is no dispute about the fact that the deceased retired from the employment on 31st May 2011 and even though her last posting was in Mumbai, since after her superannuation she started residing with the petitioner at Nanded, which is within the jurisdiction of the Maharashtra Administrative Tribunal, bench at Aurangabad. The entitlement of the petitioner to claim family pension while he was cohabiting with the deceased had accrued at Nanded. He had forwarded the request for grant of family pension from Nanded and has received the communication impugned in the Original Application at Nanded.

8. Besides, even the papers clearly reveal that the deceased was receiving the pension from a Treasury Office at Nanded.

9. In view of such state of affairs, it is abundantly clear that several steps in the bundle of cause of action have taken place at Nanded, which falls within the jurisdiction of Maharashtra Administrative Tribunal, bench at Aurangabad.

10. The impugned order does not take into consideration the aforesaid facts and circumstances and hence is not sustainable in law.

11. The writ petition is partly allowed. The impugned order is quashed and set aside. The Maharashtra Administrative Tribunal, bench at Aurangabad, shall register the Original Application for disposal in accordance with law.

[S. G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE