

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2526 OF 2023

OMPRAKASH NAGNATH LINGAMPALLI
VERSUS
THE DIVISIONAL CONTROLLER AND ANOTHER

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Advocate for Petitioner : Mr. Sachin B. Solanke
AGP for Respondent – State : Mr. S. P. Tiwari
Advocate for Respondent No.1 : Mr. A. B. Dhongade
Advocate for Respondent No.2 : Mr. N. K. ChOudhari

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CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.

DATED : 10th MARCH, 2023

PER COURT :

1. The Petitioner has put forth prayer clauses 'B', 'C', and 'D' as under:-

"B] By issuing writ of mandamus or any other appropriate writ order or direction, in the like nature, the respondent No. 1 may kindly be directed to prepare the Pension proposal of Petitioner and it may be forwarded to Respondent No.2 forthwith.

C] By issuing writ of mandamus or any other appropriate writ order or direction, in the like nature, the respondents may kindly be directed to sanction the Pension/Pensionary benefits to the Petitioner and to pay his entire arrears with interest @ 12% p.a. within the period of one month in the interest of justice.

D] By issuing writ of mandamus or any other appropriate writ order or direction, in the like nature, the respondent No. 2 may kindly be directed to generate the appropriate EPF account Number at his level to avoid any delay in sanctioning pensionary benefits of the Petitioner.”

2. The office of the Assistant PF Commissioner has entered an affidavit-in-reply through Shri Rajendra Pandurang Rajderkar, Assistant PF Commissioner, dated 09.03.2023. It is set out in paragraph Nos.4, 6 and 7 as under :

4. In reply to the contents of Para No. 5 of the Writ Petition, I say and submit that, the office of the answering Respondent has not received any application viz. Form 10D vis-a-vis the claim of the petitioner either at the instance of petitioner and/or Respondent No. 1, for processing the same. I say and submit that, as per the records submitted by the office of the employer, Pension Account No.NG/AUR/15840/2897 indicates the name of Shri Ahmad Mofyoddin Mohd. Samdani and the same is already settled and pension is being regularly paid thereby. In view of the above, the contention of the petitioner in the said para inter alia to the effect that, “...the petitioner was given and Family Pension Scheme Account No. 2897 and the fund was regularly transferred to the said accounts uninterruptedly till his retirement.”, is contrary to the record submitted by the employer of the petitioner in the office of the answering Respondent, and hence, specifically denied.

6. *Additionally, I say and submit that, the contents of the letter dtd. 15-17/05/2019 exchanged between the office of the Respondent No. 1 inter se inter alia indicate that, the discrepancy vis-a-vis the allotment of the same account number to two ex-employees of the Respondent No. 1 has crept in at the instance of Respondent No. 1, and the office of the answering Respondent is not responsible for the same.*

7. *I say and submit that, in view of the above, in order to process the pension claim, if any, of the petitioner, the petitioner and Respondent No. 1 may jointly / together be directed to submit a proposal through online process i.e. F/10D for pension with proper pension account number along with all the relevant documents, payment of pension fund contribution from the date of joining to the date of exit from the employment along with the contribution card, the paid copies of the challans. TRRN details, the joint photograph of the pensioner, the bank details of the pensioner for releasing the amount of pension in the authorized bank, F/4 and F/5, wages as on 15/11/1995 and 16/11/1995, NCP days i.e. details regarding the breaks in service, aadhar card, PAN card, valid age proof of the member, E-nomination, age proof of the nominees, etc. Pertinently, on receipt of Form No. 4 and Form No. 5 and the contribution from the date of the joining to the date of exit from the service, the office would be in a position to take the further action to determine the eligibility, quantum, etc. vis-a-vis the grant of the pension to the petitioner.*

3. It is, therefore, apparent that the PF number allotted to the

present Petitioner was erroneously used by the MSRTC for another employee, namely, Ahmed Moiyoddin. This issue will have to be reconciled by the MSRTC after taking into account the contribution of the employee's share by the Petitioner and the service benefits as are available to him. *Prima facie*, it appears that the blunder committed by the employer MSRTC, has resulted in the pension amount being paid to Ahmed Moiyoddin from the account which is allotted to the Petitioner.

4. In view of the above, Writ Petition is disposed off with a direction to the MSRTC to reconcile the entire issue, on or before 15.04.2023. Thereafter, after verifying the record of the Petitioner and in the absence of any deficiencies, the MSRTC shall ensure that the pension proposal of the Petitioner is forwarded by the MSRTC to Respondent No.2, within one week thereafter.

5. Needless to state, considering the above and taking into account the retirement of the Petitioner in July 2018, admissible interest on the pension amount/arrears, would be calculated by the MSRTC and the same would also be paid in the light of the above directions.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)