

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

CIVIL APPLICATION NO. 10008 OF 2023

IN

WRIT PETITION NO.2694 OF 2012

MANIK DADARAO PAWAR

VERSUS

THE DIVISIONAL WELFARE OFFICER, LATUR AND ANR

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Advocate for Applicant : Mr. Chate Vithal M.

AGP for respondents/State : Mr. Y.G. Gujrathi

...

CORAM : SHAILESH P. BRAHME, J.

DATE : 8th NOVEMBER 2023

PER COURT :

Heard.

1. The applicant is respondent in Writ Petition No.2694/2012. Due to subsequent development, the present application is filed. The writ petition is pending for final hearing which is not possible to be heard.
2. The applicant is attaining age of superannuation on 30.11.2023. It is contended that he is entitled to retiral benefits and for that purpose the papers with proposals are to be forwarded to the competent authority. However, due to pendency of the writ petition, the respondents are reluctant to forward the proposals. My attention is invited to the affidavit-in-reply dated 01.11.2023.
3. The learned AGP has vehemently contested the prayers of the

applicant. It is stated that the applicant has been bestowed with all the necessary benefits after reinstatement. The entry of the applicant in the service is without following due procedure of law. He further contends that if the writ petition is allowed, the appointment of the applicant will be held illegal. The reinstatement of the applicant during the pendency of the writ petition is also subject to the outcome of the petition. He prays for fixing the writ petition for early hearing, instead of granting any relief to the applicant at this juncture.

4. It appears from the record that two Courts have concurrently held in favour of the applicant. An order of reinstatement passed by the Labour Court, has not been interfered with by the Industrial Court. On 22.08.2012, the applicant has been reinstated as a Junior Clerk, albeit subject to the outcome of writ petition. Thereafter, he has been promoted and given service benefits. On 21.08.2023, the applicant received a last promotion to the post of Social Welfare Inspector.

5. I am of the considered view that the applicant prima-facie has made out a case to receive the retiral benefits. He has rendered pensionable service. I do not see any impediment in forwarding the papers and the proposals for provisional pension.

6. For the reasons stated above, Civil Application is allowed partly. The respondents shall forward the papers and requisite proposals to the competent authority for the retiral benefits as a provisional pension to

the applicant. The retiral benefits shall be subject to the decision of the writ petition.

7. With this, the Civil Application is disposed of.

[SHAILESH P. BRAHME, J.]

Najeeb.