



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1969/2022

Rambhau S/o Mahadeo Kahalkar,
aged about 62 Yrs., Occ. Retired,
R/o Nehru Nagar, Tumsar,
Tah. Tumsar, Dist. Bhandara.

... Petitioner

- Versus -

Municipal Council, Tumsar,
Tah. Tumsar, Dist. Bhandara,
through its Chief Officer.

... Respondent

Mr. K. S. Motwani, Advocate for the Petitioner.
Mr. T.S. Deshpande, Advocate for the Respondent.

CORAM :- SMT. ANUJA PRABHUDESAI &
MRS. VRUSHALI V. JOSHI, JJ.
DATED :- 12.12.2023

ORAL JUDGMENT (Per Smt. Anuja Prabhudesai, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent.

2. The petitioner was working as a Clerk with respondent-Municipal Council, Tumsar. He retired from service on superannuation on 30.6.2018. As on the date of his retirement, though 7th pay commission was in existence, the same was not implemented and the petitioner was granted gratuity, leave encashment, commutation (pay fixation) and other dues as per 6th pay commission. Aggrieved by the delay in making the payment of retirement dues the petitioner approached this Court by filing writ petition No.275/2019. During the pendency of the said petition 7th pay commission was made applicable to the employees of Municipal Council w.e.f. January 2016 and as such the petitioner was entitled for retiral benefits as per 7th pay commission.

3. By order dated 9.2.2022 this Court directed the Municipal Council to clear the entire dues in six monthly instalments. The petitioner was paid an amount of Rs.9,71,472/- though the actual due as per the 7th pay commission was

Rs.15,36,220/-. The petitioner claims that he was entitled to pay difference of Rs.5,64,738/-. In addition, he was entitled to receive an amount of Rs.1,62,054/- and Rs.66,673/- towards difference in actual pay as well as difference in pension. The petitioner, therefore, claims that the respondent is liable to pay total amount of Rs.7,93,465/-. The respondent having failed to pay the said amount even after lapse of 31 months from the date of implementation of scheme the petitioner has once again approached this Court with directions to the Municipal Council to pay the amount of Rs.7,93,465/- towards difference of payment in retiral benefits.

4. It is stated that during the pendency of the petition, the petitioner has received part amount of the total dues and that the Municipal Council is liable to pay the balance amount of Rs.65,350/-.

5. The respondent Council does not dispute its liability to pay the amount of Rs.65,350/-. The only contention of the respondent Council is that as per the Circular the said amount has to be paid in 5 equal instalments within 5 years. The amount payable is meagre. The petitioner has retired from service on 30.6.2018. He has been knocking the doors of the Court time and again to receive his legally entitled dues. Considering the above aspects we are not inclined to grant 5 years time to make the payment of Rs.65,350/-. In the facts of the case, we make the rule absolute by directing the respondent Council to pay to the petitioner on amount of Rs.65,350/- within a period of 5 months from the date of this judgment.

(MRS. VRUSHALI V. JOSHI, J.) (SMT. ANUJA PRABHUDESAI, J.)