

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.2366/2022

Tejram Maniram Mohariya,
Aged about 69 years, Occ.-retired,
R/o Plot No. 69, Aradhana Nagar, Dighori, Nagpur.

.... Petitioner.

Versus

1. The Executive Engineer,
MSEDCL, Divisional Office, Arvi, Wardha.
2. Maharashtra State Electricity Distribution Company Ltd,
having its office at " Prakashgad",
6th floor, Station Road, Bandra (E), Mumbai
through its Managing Director.

.... Respondents

Mr. J.D. Bastian, Advocate for petitioner.

Mr. D.M. Kale, Advocate for respondent no.1.

**CORAM : AVINASH G GHAROTE &
M.W. CHANDWANI, JJ.**

DATE : 19-08-2023

Oral Judgment (Per Avinash G. Gharote, J.)

Rule. Rule is made returnable forthwith.

2. We expect from Mr. Kale, learned Counsel for respondent no. 1, to be more careful in future while making submissions and filing them on record.

3. The petition seeks a direction to the respondents to release the entire retiral benefits (gratuity and PF) to the petitioner.

4. The necessary facts shorn of the unnecessary details, are as under

:-

The petitioner was appointed with the respondents in the year 1978. On 21-01-1997, in a trap conducted by the Anti Corruption Bureau, the petitioner was arraigned as an accused in Spl. Case No.8/97 for the offence punishable u/s 7, 13 (1)(d) r/w Section 13 of the Prevention of Corruption Act, 1988. On 21-01-1997, the petitioner was suspended from service which came to be revoked on 11-09-1998. The petitioner has received the full salary, *sans* increment for the duration 1998 to 2004. On 24-04-2004, the special Court convicted the petitioner. A challenge to this conviction in Criminal Appeal No.628/2004 came to be allowed by this Court by the judgment dated 15-04-2020. In the meantime, on account of his conviction, the services of the petitioner were terminated by an order dated 12-10-2004.

5. After the judgment of acquittal in Criminal Appeal No. 628/2004, the petitioner who by that time had crossed the age of superannuation, made representations on 29-12-2020 and 23-11-2021 to the respondents for grant of retiral benefits which came to be rejected by communication dated 23-11-2021 (pg 31), which is the subject matter of challenge here.

6. It is not in dispute that the services of the petitioner were terminated, not on account of any departmental enquiry conducted against him, but purely on the ground of conviction accorded in Spl. Case No.8/97 on 24-04-2004. Since the conviction has been set aside and the petitioner stands acquitted by virtue of judgment of this Court dated 15-04-2020 in Cri. Appeal No.628/04 and there were/are no other proceedings initiated against the petitioner, in our considered view, the petitioner would be entitled to retiral benefits.

7. The petition is accordingly allowed and the respondents are directed to release the retiral benefits to the petitioner as permissible in law. The entire process in this regard shall be completed within a period of 60 days from today.

8. Rule is made absolute. No costs.

JUDGE

JUDGE