



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

WRIT PETITION NO. 559/2022

State of Maharashtra and Anr.

Vs.

Manohar Laxmanrao Niratkar and Ors.

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders
.....

Court's or Judge's order

Mr. S. M. Ukey, Add.G.P. for Petitioners.

Mr. N. C. Phadnis, Advocate for 1 to 3, 5 to 21, LR's of Respondent

No.22(a to c), 23, 24, 28, 29, 30, 34, LR's of Respondent No.37(a to d) &
38 to 43.

CORAM : SMT. ANUJA PRABHUDESSAI AND
MRS. VRUSHALI V. JOSHI, JJ.

DATED : 20.12.2023

P. C.

. **Rule.** Rule is made returnable forthwith. Heard finally with consent of learned Counsel for the respective parties.

2. The respondents herein had filed an application before the Maharashtra Administrative Tribunal, Nagpur under Section 19 of the Administrative Act, 1985 with the following reliefs in prayer clauses 7(A) and 7(B) as under :

“(A) By passing a suitable order or direction, this Hon’ble Tribunal be pleased to direct the Respondent Nos.1 to 3 to grant the benefit of Assured Career Progression Scheme (ACPS) and Time Bound Promotion Scheme (TBPS) to all the applicants as per the Government Resolution dated 1.12.1994.

(B) By passing a suitable order or direction the Respondent Nos. 1 to 3 to grant these benefits of ACPS & TBPS to the applicants

herein within a stipulated period and also to pay the monetary benefit accordingly to these applicants/employees.”

3. The petitioners herein had filed a reply and in paragraph 13 of the reply had *inter alia* stated that the claim of the respondents herein was rightly rejected and that the respondents are not entitled for benefits claimed by them. It was however stated that the matter is under consideration of the respondent No.1 and appropriate action will be taken on the same.

4. In view of the said statement in paragraph 13 of the reply that the matter was still under consideration of respondent no.1, the Maharashtra Administrative Tribunal partly allowed the application and directed the respondent No.1 to take the decision as mentioned in paragraph 13 of the reply within a period of three months from the date of the order.

5. By order dated 05.07.2023, this Court had directed the State to take an appropriate decision on the grievance raised by the employees.

6. Learned Additional Government Pleader states that the State has considered the grievance and has taken a decision dated 01.11.2023 rejecting the claim of the respondents.

7. It is seen that though the application was not decided on merits, the Maharashtra Administrative Tribunal also granted relief which was prayed in terms of prayer

clauses 7(A) and 7(B). Suffice it to say that since the decision was not on merits, the Tribunal could not have granted relief in terms of prayer clauses 7(A) and 7(B). Learned Counsel for the respective parties concede that the matter needs to be remanded to Maharashtra Administrative Tribunal for decision on merits.

8. Learned Counsel for the respondents states that the decision rejecting the claim of the employees will be challenged before the Maharashtra Administrative Tribunal by amending the original application filed before the Maharashtra Administrative Tribunal.

9. Under the circumstances, the petition is allowed.

10. The impugned order dated 02.01.2020 granting prayer clauses 7(A) and 7(B) is hereby set aside.

11. The matter is remitted to the Maharashtra Administrative Tribunal with directions to decide the matter on merits in accordance with law.

12. Considering the matter is pending since long, the Maharashtra Administrative Tribunal is directed to decide the matter as expeditiously as possible.

13. Petition stands disposed of.

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