



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 WRIT PETITION NO. 2112 OF 2024

THE STATE OF MAHARASHTRA THRU ITS SECRETARY
MEDICAL EDUCATION AND DRUGS DEPARTMENT,
GOVERNMENT OF

VERSUS

SHRIKANT BHAGWANTRAO KULKARNI

...
AGP for the Petitioner : Mr. P.K. Lakhotiya

...

CORAM : RAVINDRA V. GHUGE
&
R.M. JOSHI, JJ.

DATE :- 26th February, 2024

Per Court :-

1. By this Writ Petition, the Petitioner/ State has put forth prayer clauses C and D as under:-

- “C) To quash and set aside the judgment and order dated 09.01.2023 passed by the learned Maharashtra Administrative Tribunal Bench at Aurangabad in O.A. No.502/2020 by issuing appropriate writ, order or direction.
- D) Pending hearing and final disposal of this Writ Petition, stay the effect, operation, implementation and execution of the judgment and order dated 09.01.2023 passed by the learned Maharashtra Administrative Tribunal Bench at Aurangabad in O.A. No.502/2020.”

2. We have considered the strenuous submissions of the learned AGP, who contends that the impugned judgment of

the learned Maharashtra Administrative Tribunal dated 09.01.2023 in Original Application No.502/2020, deserves to be quashed and set aside.

3. We have considered the grounds raised by the Petitioner and perused the impugned order passed by the learned Tribunal. It is undisputed that no departmental enquiry has been conducted against the original Applicant. The stand before the learned Tribunal was that a departmental enquiry is contemplated, in the backdrop of the original Applicant having attained the age of superannuation on 30.09.2019. Without any charge levelled upon him and without any finding, his pension has been stopped on the spacious plea that if an enquiry is conducted and if the original Applicant is held to be guilty, he would have to suffer the consequences.

4. It is well settled that unless the departmental enquiry is commenced, at least by issuance of a charge-sheet and show cause notice prior to the retirement of an employee, a departmental enquiry cannot be conducted after the retirement of an employee, save and except, if the Rules prescribe otherwise. Moreover, the learned Tribunal has balanced the equities by directing the original Applicant, while allowing the Original

Application, as under:-

- “[i] Original Application is allowed.*
- [ii] By obtaining the necessary undertaking/bond from the applicant, respondents are directed to release the amount of gratuity and other admissible retiral benefits to the applicant and forward the pension papers to A.G. Office for grant of regular pension within 6 weeks from the date of this order.*
- [iii] It shall be open for the respondents to conduct departmental enquiry as may be permissible under Rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982.”*

5. In view of the above, we do not find that the impugned judgment of the learned Tribunal could be termed as being perverse or erroneous. **This Writ Petition is, therefore, dismissed.**

kps (R.M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)