



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 998 OF 2021

WITH
WRIT PETITION NO. 999 OF 2021
WITH
INTERIM APPLICATION NO.19107 OF 2022
IN
WRIT PETITION NO. 999 OF 2021

WITH
WRIT PETITION NO. 11757 OF 2022

Dr. Dattatrya Rajaram Jadhav

...Petitioner

Versus

State Of Maharashtra and Ors.

...Respondents

Mr. D.V. Sutar a/w. Anjali Shaw, Kiran G. Kulkarni, Deepak Jain, for
Petitioner.

Ms. A.A. Purav, AGP for Respondent Nos. 1 to 3.

Mr. M.V. Thorat, for Respondent Nos.6 & 7 in WP/998/2021.

Mr. Ramesh D. Rane, for Respondent Nos.4 & 5 in WP/998/2021,
for Respondent No.2 in WP/999/2021 and for Respondent Nos.4, 5
& 11 in WP/11757/2022.

**CORAM: NITIN JAMDAR &
M.M. SATHAYE, JJ.**

DATE : 26 MARCH 2024

P.C.:

. Heard learned counsel for the parties. Taken up for disposal.

2. The Petitioner in these three petitions is the same. The

Petitioner was working as a Medical Officer. Firstly, with Zilla Parishad, Sangli and thereafter with Zilla Parishad, Sindhudurg.

3. In Writ Petition No. 998 of 2021 the Petitioner has challenged the order passed by the District Health Officer, upon the communication received from Zilla Parishad, Sangli about an amount of Rs. 11,70,640/- towards rent for overstay in the official quarters from 14 March 2014 to 31 October 2020.

4. Writ Petition No. 999 of 2021 is filed by the Petitioner for a direction to Zilla Parishad, Sindhudurg and the State Government for disbursal of the Petitioner's pensionary benefits.

5. Writ Petition No. 11757 of 2022 is filed by the Petitioner challenging the order issued by Zilla Parishad, Sindhudurg seeking recovery of amount of the Rs.24,87,611/- as excess payment.

6. Writ Petition No. 11757 of 2022 and Writ Petition No. 999 of 2021 pertaining to Zilla Parishad Sindhudurg are relating to pensionary benefits and recovery and Writ Petition No. 998 of 2021 pertains to Zilla Parishad, Sangli.

7. The Petitioner was appointed as Medical Officer Class- III in Zilla Parishad Dispensary, Sindhudurg. Thereafter, he worked as Medical Officer Class- III and later as Medical Officer Class- II in Sangli District. The Petitioner was transferred by order dated 31 March 2014 to Zilla Parishad Sindhudurg. According to the Zilla Parishad, Sangli, the Petitioner did not vacate his quarters for the

above mentioned period and therefore, the rent as proposed to be recovered by the impugned direction was due from the Petitioners. According to the Petitioner, he was staying in private quarters and he had handed over the possession. Respondent Zilla Parishad sought to rely upon notice issued and the response of the Petitioner.

8. As to from which date the Petitioner actually handed over possession or whether in fact the Petitioner was staying in private accommodation are questions of fact. Before issuing a notice of recovery of substantial amount and opportunity should have been given to the Petitioner to put forth facts. The impugned order does not show that such an opportunity was given. We are informed that out of Rs. 11,70,640/- amount of Rs. 3,91,505/- is already recovered. And now the amount of Rs. 7,79,135/- is balance remaining which is not yet recovered.

9. In these circumstances, we are of the opinion that Writ Petition No. 998 of 2021 can be disposed of observing that if the Respondent Zilla Parishad, Sangli is proceeding to recover the aforesaid balance amount, it will put the Petitioner to notice, listing out proposed grounds of recovery and will call upon the Petitioner to submit response within a reasonable period and will give opportunity to the Petitioner to give explanation and thereafter, pass a reasoned order.

10. Turning now to Writ Petition No. 999 of 2021 and Writ Petition No. 11757 of 2022, learned counsel for the Zilla Parishad, Sidhudurg, from where the Petitioner has retired, has placed before

us a statement issued by the Office of the Accountant General whereby the Petitioner's pensionary benefits have been finalized and fixed. Learned counsel for the Petitioner states and which is also borne out by the instructions given to the counsel for Respondent Zilla Parishad, that recovery is not proposed from the pensionary benefits that will be released now. In light of these developments, we do not deem it necessary to keep these two writ petitions pending as the grievance regarding the non-payment of any pensionary benefits seems to be resolved. If the fixation of the pension is not correct then it could be an independent cause of action for which we give liberty to the Petitioner to adopt appropriate proceedings. In case the recovery is still proposed in spite of the above position, we grant liberty to the Petitioner to revive the challenge to recovery.

11. With these observations and directions, three writ petitions are disposed of.

12. In view of disposal of the writ petitions, nothing survives in the Interim Application No. 19107 of 2022 and the same is accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)