



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

CIVIL APPLICATION NO.1230 OF 2024

IN

WRIT PETITION NO.274 OF 2022

Shila wd/o Mahadev Nimkar, VTC Mohadi, Bhandara

-vs-

State of Maharashtra, Thr. Secretary, Urban Development Dept. Mantralaya, Mumbai and ors.  
The Commissioner/Director, Directorate of Municipal Administration, Worli, Mumbai  
... Applicant

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

Court's or Judge's Orders.  
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Shri A. I. Fidvi, Advocate for petitioner.

Shri S. M. Ukey, Additional Government Pleader for respondent Nos.1 and 2 and  
for applicant.

Shri M. I. Dhattrak, Advocate for respondent No.3.

**CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.**

**DATE : April 23, 2024**

P. C.

1. We have perused the application for extension and heard Shri S. M. Ukey, learned Additional Government Pleader appearing for the applicant.

2. The original petitioner Mahadeo Nimkar was in the employment of respondent No.3-Municipal Council, Bhandara for a period of 30 years however, post superannuation he was denied retiral benefits on the ground that he was not permanent employee.

3. The Industrial Court vide order dated 25/03/1998 allowed the plea of the employees in Complaint (ULP) Nos.1561 to 1568/1991 to which the original petitioner Mahadeo Nimkar was party as complainant and the respondents therein were directed to regularize the services of all the complainants on completion of their two years service and to pay the salary on regularization of their services within

three months from the date of order.

4. The benefits since were not paid, this Court initially passed detailed order on 13/06/2023. Vide order dated 20/09/2023 this Court took note of the fact that the original petitioner/employee has expired on 27/08/2023 and permitted the legal heirs to pursue the petition.

5. On 05/10/2023, the learned Additional Government Pleader Shri S. M. Ukey invited attention of the Court to the communication dated 09/05/2023 issued by respondent No.2-Director/Commissioner, Directorate of Municipal Administration to the Principal Secretary, Directorate of Urban Development Department, Mumbai and reminder dated 23/08/2023 in the matter.

6. Subsequent thereto on 10/11/2023 the writ petition came to be disposed of in view of a statement made by the learned Additional Government Pleader based on communication dated 17/10/2023 that respondent No.2 has agreed to absorb the original petitioner.

7. On observing that as the petitioner-employee has expired and there shall be no issue of reinstatement, the Court directed to pay the monetary benefits to the legal heirs of the petitioner-employee within a period of four weeks.

8. The respondent State thereafter approached before this Court through Civil application No.3638/2023 seeking extension of time to pay monetary benefits citing reason that there was a discussion amongst the State officials for releasing the entire amount within a period of four months. As such this Court vide order dated 22/12/2023 directed payment of monetary benefits within a period of four weeks by

way of last opportunity.

9. In spite of the last indulgence shown by this court, the respondent-State has failed to pay the monetary benefits.

10. The respondent-State thereafter moved another application being Civil Application No.6979/2024 for extension of time to comply with the order. The reason cited in support of prayer for extension was that the request is already under process for release of amount at Government level. On noticing that last chance was already given in the matter of extension vide order dated 22/12/2023, on 04/03/2024 this Court granted extension of four weeks subject to payment of costs of Rs.5000/-.

11. The said period of four weeks from 04/03/2024 is also now expired. By the present application, the respondent-State is again seeking extension of further three months as according to it in view of existing Model Code of Conduct for Lok Sabha elections further three months shall be required for processing the request for release of monetary benefits.

12. The aforesaid prayer is strongly opposed by the learned counsel for the original petitioner i.e. non-applicants herein on the ground that one or the other baseless reasons are being sought to be dug out for extension of time. According to the learned counsel the fact of rendering 30 years service by the employee exists which can be inferred from the order of the Industrial Court passed in 1998 and modified in 2006. The directions issued by this Court on 10/11/2023 and onwards sufficiently speak of seriousness of the issue. As such it was prayed that the prayer for further extension is liable to be rejected.

13. We have appreciated the rival claims. The fact remains that the order of the Industrial Court passed in 1998 which was modified in 2006 has attained finality. All the parties to the petition are well aware of this fact. The original petitioner's entitlement to the terminal benefits and the order dated 10/11/2023 was also known to the respondent-State it being party to the petition. Instead of complying with the order dated 10/11/2023, the respondent-State cited administrative difficulties and sought extension of time which was allowed by this Court on 22/12/2023 by way of last opportunity.

14. The respondent-State thereafter again for the very same reason that is administrative difficulty sought further extension which was also granted vide order dated 04/03/2024 subject to payment of costs of Rs.5000/-.

15. Now the respondent-State has come up with a prayer for extension on the ground that there exists Model Code of Conduct for Lok Sabha elections and it will be difficult for them to process the request of releasing monetary benefits of the original petitioner.

16. It can be inferred from the aforesaid conduct of the respondent-State that it has no intention to comply with the orders of the Court as they are trying to dig out one or the other baseless reasons for seeking extension of time in the matter of compliance of the orders qua release of monetary benefits in favour of the original petitioner.

17. The approach of the State in failure to comply with the orders of this Court dated 10/11/2023, 22/12/2023 and 04/03/2024 apparently speaks of their callous attitude. We hardly see any reason in the application which would prompt this Court to accept the plea canvassed by the learned Additional Government Pleader that the State has every

bonafide intention to comply with the orders in the matter.

18. The reason of existence of Model Code of Conduct and same being formed to be the basis for seeking extension cannot be accepted when this Court on earlier occasions had already put the State to the conditions for compliance of the orders within the time stipulated.

19. This Court has already showed sufficient indulgence in the matter. The State is not sensitive of the fact that the employee in whose favour request is made for release of monetary benefits has already expired during pendency of the proceedings. The aforesaid conduct of the State needs to be deprecated in strong words.

20. With above observations the prayer for further extension of time for releasing monetary benefits in favour of the legal heirs of the original petitioner is rejected.

21. Civil Application is disposed of accordingly.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)