



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

WRIT PETITION NO.4399 OF 2024

Rajkumar s/o Vithalrao Taskar, aged about 60 years, Occ. Nil, superannuated without pension, R/o Plot no. 118, Pawan Bhumi Lay-out, Somalwada, Wardha Road, Nagpur, Nagpur – 440 025

... PETITIONER

VERSUS

1. The Maharashtra State Power Generation Company Limited, 'PRAKASHGAD', 2nd floor, Anant Kanekar Marg, Bandra (East), Mumbai – 440 051, E mail : md@mahagenco.in, website : www.mahagenco.in, through its Chairman and Managing Director.
2. The Chairman, Board of Directors, the Maharashtra State Power Generation Company Limited (MSPGCL), 'Prakashgad', 2nd floor, Anant Kanekar Marg, Bandra (East), Mumbai – 440 051. .
3. The Maharashtra State Power Generation Company Limited, 'PRAKASHGAD', 2nd floor, Anant Kanekar Marg, Bandra (East), Mumbai – 440 051
4. The State of Maharashtra, Ministry of Energy, New and Renewable Energy, Government of Maharashtra, Mantralaya, Mumbai, Mumbai – 400 032. through its Secretary.

... RESPONDENTS

Shri D.S. Thakur, Advocate for the petitioner.
Shri B.N. Mohta, Advocate for respondent nos. 1 to 3.
Ms. D.V. Sapkal, Assistant Government Pleader for respondent no. 4
State.

CORAM : SMT. M.S. JAWALKAR AND PRAVIN S. PATIL, JJ.
DATE : 21.07.2025.

ORAL JUDGMENT : (Per : Pravin S. Patil, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. By the present petition, the petitioner impugned the charge-sheet bearing No.06756 dated 03.07.2024 issued by respondent no.1 Company, on the ground that he being superannuated on 31.10.2022, there is no provisions under the Rules by which the Departmental Enquiry (for short hereinafter referred to as 'D.E.') can be conducted after post retirement.

4. It is an admitted fact that the petitioner was appointed on 10.02.1986 and attained the age of superannuation on 31.10.2022 and that time the petitioner was holding the post of Chief Engineer in the

respondent Company. It is pointed out that services of the petitioner are governed by the MSPGCL Employees' Service Regulation, 2015 (for short 'the Regulation, 2015'). Under Chapter VII of the Regulation, 2015, a procedure is incorporated to conduct a disciplinary action against the employee. Perusal of the said Rules, nowhere provides the powers to the Appointing Authority to conduct D.E. after the post retirement from the service.

5. *Per contra*, the respondent Company submitted that under Clause 8 of the Chapter I of the Regulation 2015, there is specific provisions stating that, if any provision of the Regulation found conflicts with any Statutory Rules or Regulations for the time being in force then in that case, the Statutory Rules and Regulation will prevail. As such, relying on the abovesaid Clause, it is his submission that the provisions of Maharashtra Civil Services (Pension) Rules, 1982 (for short hereinafter referred to as 'the MCSR Rules, 1982') will be applicable in the matter. Accordingly, the D.E. initiated by the Company by issuing the charge-sheet is in consonance with the provisions of law and the petition deserves to be dismissed.

6. We have heard both the learned Counsel and perused the record and Rules on which they relied upon.

7. It is admitted position that in the present case, the petitioner on 31.12.2022 attained the age of superannuation and at that time the respondent Company did not reserve the right to initiate the disciplinary action against the petitioner. On the contrary, all the service benefits as permissible, were given to the petitioner except leave encashment.

8. Learned Counsel for the petitioner pointed out that for releasing the leave encashment, he approached to this Court vide Writ Petition No.3074 of 2024. This Court while disposing of the said Writ Petition, directed the respondent to release the leave encashment in favour of the petitioner as per the interim order dated 20.09.2024 and accordingly, the respondent concerned has complied with. As such, no dues are outstanding against respondent Company.

9. We have perused the Regulation, 2015 on which the reliance has been placed by both the parties. We do not find any Rules permitting the respondent Company to initiate the D.E. after the post retirement. Learned Counsel for the respondent nos.1 to 3 fairly conceded the factual position, but to substantiate his submission relied upon the MCSR Rules, 1982 by referring Clause 8 of Chapter I of the Regulation, 2015.

10. In this regard, learned Counsel for the petitioner has rightly pointed out that the respondent Company did not place any document on record to show that the Company has accepted the Maharashtra Civil Services Rules to govern the service conditions of its employees. Further Clause 8 of the Chapter I of the Regulation, 2015 specifically stated that if the provisions of the Regulation, 2015 found to be in conflict with any statutory Rules or Regulation, then in that case statutory Rules and Regulations will prevail. But admittedly, there are no Rules framed by the concerned Company, which are in conflict with the statutory Rules and Regulations and therefore, according to us, Clause 8 of Chapter I of the Regulation, 2015 is not relevant in the matter and consequently, MCSR Rules, 1982 are not applicable in the matter. Therefore, we do not find any substance in the submission of the petitioner.

11. Learned Counsel for the petitioner rightly relied upon the judgment of the Hon'ble Supreme Court in the case of ***Bhagirathi Jena vs. Board of Directors, O.S.F.C. 1999 (3) SCC 666***, wherein in paragraph 5, the Hon'ble Supreme Court has observed thus :

“5. In view of the absence of such provision in the abovesaid regulations, it must be held that the Corporation had no legal authority to make any reduction in the retiral benefits of the appellant. There is also no provision for

conducting a disciplinary enquiry after retirement of the appellant and nor any provision stating that in case misconduct is established, a deduction could be made from retiral benefits. Once the appellant had retired from service on 30.6.95, there was no authority vested in the Corporation for continuing the departmental enquiry even for the purpose of imposing any reduction in the retiral benefits payable to the appellant. In the absence of such authority, it must be held that the enquiry had lapsed and the appellant was entitled to full retiral benefits on retirement. ”

12. In the circumstances, we are of the confirmed opinion that as there is no provisions to conduct D.E. after the post retirement of the petitioner, the respondent is not permitted to conduct the same, as the relations ‘employer-employee’ came to an end, immediately after the superannuation of employee. Accordingly, we pass the following order :

- (a) The Writ Petition is allowed.
- (b) The Charge-sheet bearing No.06756 dated 03.07.2024 issued by respondent no. 1 against the petitioner to conduct the Departmental Enquiry, is hereby quashed and set aside.

13. Rule is made absolute accordingly. No costs.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)

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