

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.169 OF 2017**

DIST. :PARBHANI

Sandeep S/o Ramesh Chavan,  
Age. 26 years, Occu. Nil,  
R/o Bendri, Tq. Bhokar,  
Dist. :Nanded.

-- APPLICANT

**VERSUS**

1. The State of Maharashtra,  
Through the Secretary,  
Home Department,  
Mantralaya, Mumbai 32.
2. The Director General of Police,  
Maharashtra State, Mumbai,  
Shyam Prasad Mukherjee Chowk,  
Culaba, Mumbai – 32.
3. Special Inspector General of Police,  
Nanded, Range Nanded.
4. The Superintendent of Police,  
Parbhani, Dist. Parbhani. -- RESPONDENTS

APPEARANCE :- Shri P.B. Rakhunde, learned Advocate for  
the applicant.

: Smt. Deepali S. Deshpande, learned  
Presenting Officer for the respondents.

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**CORAM** : **JUSTICE M.T. JOSHI, VICE CHAIRMAN**  
**A N D**  
**ATUL RAJ CHADHA, MEMBER (A)**

**DATE** : **20<sup>th</sup> July, 2018**  
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**J U D G E M E N T**

(Per : Justice M.T. Joshi, Vice Chairman)

1. Heard Shri P.B. Rakhunde, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. By the present O.A. the applicant is seeking following reliefs :-

*“D) To quash and set aside the termination order dated 4.3.2016 issued by Superintendent of Police, Parbhani bearing Outward no. 172/DP-15/2015/2016.*

*E) To quash and set aside the decision and order dated 18.11.2016 bearing outward No. 9293 issued by Special General Inspector of Police, Nanded Range, Nanded.*

3. The present applicant was serving as a Police Sipai with the respondents since 22.8.2014. A departmental enquiry was initiated against the applicant vide order dtd.1.12.2014 on the following charges :-

(1) that the applicant un-authorizedly remained absent from duty during the period from 1.11.2014 to 3.11.2014.

(2) that a crime was registered against the applicant for the offences punishable U/s 376 of the I.P.C. on 8.11.2014, which has maligned the image of police in general public.

4. In the imputation of charges, details regarding FIR lodged against the present applicant by the prosecutrix were given. The defense of the applicant was that for the period from 1.11.2014 to 3.11.2014, he was suffering from viral fever and, therefore, was unable to attend the duty. He has filed the medical certificate issued by the Medical Officer, Rural Hospital, Umari, Dist. Nanded to that effect.

5. As regards the second charge, the applicant has explained that the prosecutrix was on talking terms with him on mobile phone. On 1.11.2014, he went to his ailing brother's house, which is near to the prosecutrix' house,. He remained there for 3 days. He did not respond to the prosecutrix. Later on, he came to know from his father that on 5.11.2014 the said prosecutrix has taken some poisonous substance. After taking poison, a crime was registered against the applicant as the posecutix filed fist information report alleging that he has sexual relation with the prosecutrix, but he refused to marry her. Therefore she took poison. The applicant was arrested in the said crime. While the

applicant was in judicial custody, he has given promise to the prosecutrix that he will marry her. Ultimately she affirmed in an affidavit that, under misunderstanding she has filed FIR and, therefore, the applicant was released on bail. After release, the applicant married with the prosecutrix on 6.12.2014. Both of them resided together for 3 months. However, the prosecutrix died . Therefore, he pleaded that, the crime registered against him was false and prayed to exonerate him from both the charges.

6. Before the Enquiry Officer the statements of the witnesses who were cited in the criminal case were recorded along with others' statements. Prosecutrix however had already died by that time. Hence her statement could not be recorded. The applicant has filed medical certificate to show that he was suffering from viral fever during the period from 1.11.2014 to 3.11.2014.

It is an admitted fact that in the criminal case before the Sessions Court, father and other relatives of the deceased prosecutrix turned hostile. The Medical Officer was also examined. Before the Sessions Court, the applicant admitted the opinion of the medical Officer that deceased prosecutrix was ravished as can be seen from the statement recorded in the judgment by the learned Sessions Judge.

The record and papers of the D.E. were called before the tribunal. Those papers would show that on 4.11.2014, the applicant explained to his Officer about his absence from 1.11.2014 to 4.11.2014 that he had some domestic problem. However before the Enquiry Officer, the applicant explained that he was suffering from viral fever and even he had filed the medical certificate of Medical Officer, Rural Hospital, Umari, Dist. Nanded to that effect. The Enquiry Officer held that, though the witnesses turned hostile before him as well as in the Sessions Court, the material on record would show that the applicant remained absent unauthorizedly and has also committed misconduct regarding the prosecutrix. In the circumstances, the enquiry report accordingly was forwarded by the Enquiry officer to the disciplinary authority. On the basis of said enquiry report, the res. no. 4 the Superintendent of Police took the impugned decision, which was maintained by the superiors in the departmental appeal etc.

7. Shri Rakhunde, learned Advocate for the applicant submits before us that all the material witnesses termed hostile not only before the Sessions Court, but also before the Enquiry Officer and the main charge of ravishing a lady, which compelled her to commit suicide is not substantiated. The medical certificate

shows that the applicant could not remain present on duty as he was ill during the relevant period.

8. Learned P.O. pointed towards the facts and submitted that the record itself would show that the applicant had ravished the deceased prosecutrix, who had filed FIR against him and later on died and, therefore, in the D.E. it can be accepted as a dying declaration. Learned P.O. submitted that the charge against the applicant is proved from the record itself as regards his absence during the relevant period. As the applicant remained absent unauthorisedly from duty during the period from 1.11.2014 to 3.11.2014, his immediate superior i.e. Reserve Police Inspector issued a show cause notice to him on 4.11.2014. The applicant submitted an explanation-cum-statement on the very same day. Its copy is part and parcel of enquiry papers filed on record. By the said explanation, the applicant gave a reason as domestic problem for the said absence, however, before the Enquiry Officer he filed medical certificate of Medical Officer, Umari, Dist. Nanded. Thus, not only the reason given by the applicant is false, but it would show that the applicant, who is posted at Parbhani had left his headquarters and went to Nanded without seeking any permission to leave the headquarters. As such, learned P.O. submits that there is no merit in the present O.A..

9. In our view, the applicant, who is acquitted in the criminal case for prosecutrix death in the meanwhile and other witnesses does not support the case, cannot be exonerated in the departmental inquiry. Falsity of statement about the absence of the applicant during the crucial period is explicit. The FIR of the deceased would operate as a dying declaration. The record shows that the applicant has committed misconduct. Hence, we pass following order :-

**ORDER**

The Original Application is dismissed without any order as to costs.

**MEMBER (A)**

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date :20<sup>th</sup> July, 2018**