

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 72 OF 2022**

**DISTRICT : JALNA**

**Arjun Manohar Pawar,** )  
Age. : 57 years, Occ. Police Sub Inspector, )  
R/o House no. 230, Survey no. 488, )  
Police Line, Jalna, Tq. and Dist. Jalna. ) .. **APPLICANT**

**V E R S U S**

**The Superintendent of Police, Jalna, )**  
Administrative Building, Jalna, )  
Jalna, Tq. and Dist. Jalna. ) .. **RESPONDENT**

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**APPEARANCE** : Shri V.B. Wagh, Counsel for Applicant.  
: Shri B.S. Deokar, Presenting Officer for  
respondent.

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**CORAM** : **JUSTICE P.R. BORA, VICE CHAIRMAN.**

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**DATE** : **23.08.20223.**

**ORAL - ORDER**

1. Heard Shri V.B. Wagh, learned counsel for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondent.

2. Applicant was appointed as Police Constable on 5.3.1987. On 21.1.2021 he was promoted as Police Sub-Inspector. Prior

to that in between 8.11.2017 to 28.11.2020 he was placed under suspension since was trapped in anticorruption matter. Special case (ACB) No. 03/2018 was filed against the applicant in the Sessions Court at Jalna. The Additional Sessions Judge, Jalna acquitted the applicant of the charges levelled against him in the aforesaid special case vide its judgment delivered on 8.10.2020. The State has preferred criminal appeal against the order passed by the Additional Sessions Judge before the Hon'ble High Court bearing ALS No. 126/2020 and it is pending. The departmental enquiry was also conducted against the applicant based on the same incident of allegedly accepting bribe. However, applicant came to be exonerated of the charges raised against him in the said D.E. Respondent thereafter passed an order on 20.11.2020, thereby regularizing the period of suspension undergone by the applicant between 8.11.2017 to 28.11.2020. In the order dated 20.11.2020 mistake had occurred in mentioning the period of suspension and mistake so occurred was corrected in the order dated 4.12.2020. However, respondent vide its subsequent order dated 29.12.2021 recalled the earlier order whereby the period of suspension was regularized. Aggrieved by the said order the applicant has preferred the present Original Application.

3. Shri V.B. Wagh, learned counsel appearing for the applicant submitted that the applicant had retired from Police services on 31.5.2023 after attaining the age of superannuation. Learned counsel further submitted that since the period of suspension undergone by the applicant has not been regularized, on the contrary the order passed in that regard has been cancelled by the respondent, the proposal for grant of final pension to the applicant cannot be processed. Learned counsel submitted that even that will affect the payment of other retiral benefits payable to the applicant. Learned counsel pointed out that this Tribunal in several matters has directed for regularizing the period of suspension, subject to outcome of criminal appeal filed by the State against the order of acquittal recorded in favour of the Government servant. Learned counsel submitted that in **W.P. No. 6650/2020 [Ashfakali Khan Abdulali Khan Vs. the State of Maharashtra and Ors.]** the Hon'ble Bombay High Court, Bench at Aurangabad has also passed similar orders. Learned counsel, in the circumstances, has prayed for passing the similar order in the present matter.

4. Learned Presenting Officer referring to rule 130(c) of the M.C.S. (Pension) Rules, 1982 and rule 72(6) of the Maharashtra

Civil Services (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal) Rules, 1981 justified the impugned order.

5. I have duly considered the submissions made on behalf of the applicant, as well as, the State authorities. Hon'ble High Court in the case of **[Ashfakali Khan Abdulali Khan Vs. the State of Maharashtra and Ors.]** (cited supra) has dealt with the issue, which is involved in the present matter also. Question arises whether on the ground of pendency of the criminal appeal filed by the State against the order of acquittal recorded in favour of the Government employee, the retiral benefits payable to the said employee can be withheld till the decision of the criminal appeal by the Hon'ble High Court. Hon'ble High Court has ruled that in such cases by obtaining an undertaking from the Government employee to the effect that in case of appeal decided against him meaning thereby that if his acquittal is converted into the conviction by the Hon'ble High court, he will redeposit the entire benefits received to him within 8 weeks from the date of such adverse order recorded against him, the retiral benefits can be remitted in favour of the Government employee. Relying on the aforesaid decision of the Hon'ble High Court this Tribunal has in number of matters has passed

similar orders. This Tribunal in **O.A. No. 322/2020 (Lilachand s/o Hiraji Patel Vs. the Collector, Jalgaon & Anr.)** decided on 6.6.2022 has also passed an order, thereby directing the respondents therein to regularize the period of suspension subject to outcome of the criminal appeal pending in the Hon'ble High Court against the applicant therein. I deem it appropriate to adopt the same approach in the present matter. Hence, the following order :-

**ORDER**

- (i) Order dated 29.12.2021 passed by respondent is set aside.
- (ii) Respondent shall regularize the period of suspension undergone by the applicant from 8.11.2017 to 28.11.2020, subject to the decision in the criminal appeal bearing ALS No. 126/2020 pending before the Hon'ble High Court, within 8 weeks from the date of this order.
- (iii) Original Application stands allowed in the aforesaid terms. No order as to costs.

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 23.8.2023**

ARJ O.A. NO. 72 OF 2022 (SUSPENSION)