

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 792 OF 2022

DISTRICT : AURANGABAD

Madhukar s/o Laxman Pradhan,
Age : 60 years, Occu. : Retired Police
Inspector, R/o Flat no. B-8,
Sakshi Nagari, Gut No. 140,
Bajaj Nagar, Waluj MIDC,
Aurangabad – 431 136.

...APPLICANT

V E R S U S

- 1) The Director General of Police (M.S.),
State Police Headquarter,
Shahid Bhagatsing Marg, Kulaba,
Mumbai – 400 001.
- 2) Additional Director General of
Police (Establishment),
Office of Director General of Police,
State Police Headquarter,
Shahid Bhagatsing Marg, Kulaba,
Mumbai 400 001.
- 3) Special Inspector General of Police,
Aurangabad Range, Aurangabad,
Near Youth Hostel, Vishrambagh colony,
Padampura Road, Aurangabad 431 005.
- 4) Special Inspector General of Police,
Nanded, Range Nanded,
Mhada Colony, Nanded – 431 603.
- 5) Superintendent of Police, Nanded,
Vajirabad Square, Nanded – 431 601.
- 6) Superintendent of Police, Osmanabad,
National Highway 211, near Zilla Parishad,
Police Line, Osmanabad – 413 501.

7) Superintendent of Police, Beed,
Near Civil Hospital, Shivaji Chowk,
Beed 431 122

....**RESPONDENTS**

APPEARANCE : Shri O.D. Mane, learned Counsel for
Applicant.
: Shri V.R. Bhumkar, Presenting Officer
along for State authorities.

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

DATE : **24.04.20223.**

O R A L O R D E R:

1. Heard Shri O.D. Mane, learned Counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. It is the case of the applicant that vide order dated 1.8.2018 he was promoted from the post of Assistant Police Inspector (for short A.S.I.) to the post of Police Inspector (for short P.I.). It is the grievance of the applicant that despite his order of promotion he was not relieved from the office for joining on the promoted post till 14.2.2019. In the circumstances, the applicant has filed the present Original Application seeking the pay and allowances of the post of P.I. during the period between 1.8.2018 to 14.2.2019.

3. The respondents have resisted the contentions raised and the prayers made in the application. It is the contention of the respondents that the applicant has been duly granted 1.8.2018 as the deemed date of his promotion on the post of Police Inspector. Order of promotion was issued in favour of the applicant on 1.8.2018. It is further contended that because of some departmental proceedings pending against the applicant he could not be relieved from the post of API and in not relieving the applicant to join on the promotional post there was no mala-fide intention of the respondents. It is further contended that the relevant record concerning to the reasons for not relieving the applicant before 14.2.2019 has been destroyed and in the circumstances the respondents are unable to produce on record said information and the relevant documents. It is further contended that at the relevant time the applicant was undergoing punishment of stoppage of 2 increments and in the circumstances the applicant could not have been permitted to join on the promotional post unless the said period expires. It has also been contended that 4 summary proceedings were pending against the applicant. On all aforesaid grounds the respondents have prayed for dismissal of the application.

4. I have duly considered the submissions advanced on behalf of the applicant, as well as, the respondents. I have also gone through the documents filed on record. It is not in dispute that the applicant was promoted from the post of A.P.I. to P.I. vide order dated 1.8.2018. It is also not in dispute that for joining on the promotional post the applicant was relieved from his existing post on 14.2.2019. At the relevant time the applicant was working at Police Station, Tuljapur in Osmanabad District as A.P.I. and on promotion he was posted in the District of Nanded and was supposed to report the Superintendent of Police, Nanded for his detailed posting in the said District. According to the applicant, without any cogent and sufficient reason the applicant was not relieved from the post of A.P.I. for the period of about 6 months and has been thus deprived of the pay and allowances of the post of P.I. in the relevant period.

5. If the reasons as are assigned by the respondents are considered, none of the said reason appears to be cogent and sufficient for not relieving the applicant from the post of A.P.I. from Police Station, Tuljapur. If it is the case of the respondents that some departmental proceedings were pending against him or the applicant was undergoing some punishment of stoppage of increments and that period had not expired or there were 4

summary cases pending against the applicant, in the order of promotion the respondents were bound to disclose or mention all aforesaid facts and his promotion could have been made subject to his completing the period of punishment or subject to his exoneration from summary cases pending against him. In the order of promotion none of the aforesaid reason is mentioned or assigned. It has to be further stated that if such was the position the Departmental Promotion Committee must have kept the result of the applicant in a sealed cover and the promotion could have been granted effectively only after completion of the period of punishment by opening the sealed cover. In the present matter none of such procedure was followed, there was no such impediment for granting promotion to the applicant.

6. At this juncture, the learned Presenting Officer sought to contend that in the order of promotion there is specific condition and clause 4 of the said order envisages that if any departmental enquiry is pending against any such employee or the period of minor punishment is not yet over or the candidate concerned has not produced on record the caste validity certificate, the concerned Police Officer shall not be relieved by the In-charge of the Police Station even though he has been promoted. However, it has to be stated that the respondents have not produced on record any such

material except making a vague statement in their affidavit in reply that summary proceedings were pending against the applicant and that in the DE, punishment of stoppage of increment was given and the said period was not over. The respondents have failed in substantiating the stand taken by them. Therefore, the applicant cannot be deprived from the right, which has accrued in his favour on 1.8.2018 to receive all the benefits of the promotional post, which include the pay and allowances also.

7. In view of the fact that the respondents utterly failed in bringing on record any cogent and sufficient reason for not relieving the applicant for period of about 6 months from the post of A.P.I., the applicant is certainly deprived of the pay and allowances of the higher post without any fault on his part. The prayer of the applicant is, therefore, fully justified and deserves to be allowed. For all aforesaid reasons the Original Application deserves to be allowed. Hence, the following order :-

ORDER

(i) Applicant is held entitled for the pay & allowances of the post of Police Inspector for the period between 1.8.2018 to 14.2.2019.

- (ii) Respondents are directed to pay the difference of the pay & allowances of the aforesaid period to the applicant within 3 months from the date of this order.
- (iii) Original Application is allowed in the aforesaid terms.
- (iv) No order as to costs.

VICE CHAIRMAN

PLACE : Aurangabad.

DATE : 24.4.2023.

ARJ O.A.NO.792-2022 (PAY AND ALLOWANCES)