

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 920 OF 2017
(Subject – Suspension Period)**

DISTRICT : LATUR

Shri Prakash S/o Bhimrao Gaganbone,)
Age : 60 years, Occu. :Retired,)
Dist. Dongarwadi, Tq. Deoni,)
At present Murud, Tq. & Dist. Latur.)

.. APPLICANT

V E R S U S

- 1) **The State of Maharashtra,**)
Through Secretary,)
Home Department, Mantralaya,)
Mumbai-32.)
- 2) **The Superintendent of Police, Latur**)
Tq. & Dist. Latur.)
- 3) **The Special Inspector General of Police,**)
Nanded, Range Nanded,)
Tq. And Dist. Nanded.)
- 4) **The Director General of Police,**)
Maharashtra State, Mumbai.)

.. RESPONDENTS

APPEARANCE : Shri P.B. Rakhunde, Advocate for the
Applicant.

: Shri B.S. Deokar, Presenting Officer for the
Respondents.

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 11.12.2018.

ORAL - ORDER

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

2. The applicant has challenged the order dated 26.09.2014 passed by the respondent No. 2 in view of Rule 5 of the Bombay Police (Punishment and Appeals) Rules 1956 imposing punishment of treating his suspension period as it is and withholding annual increment of the applicant for two years and the order passed by the respondent No. 3 on 05.03.2015 dismissing the appeal and confirming the order passed by the respondent No. 2 by filing the present Original Application.

3. At the time of hearing of the O.A., learned Advocate for the applicant has submitted that the applicant is not going to press the prayer to quash and set aside the order imposing punishment on the applicant and thereby withholding his increments for two years. The applicant is now challenging the remaining prayer regarding the order of treating suspension period w.e.f. 09.06.2010 to 23.05.2014 as it is by way of punishment in view of Rule 5 of the Bombay Police (Punishment and Appeals) Rules 1956. He has submitted that there is no

provisions in Rule 3 and 5 and Schedule- 1 of the Bombay Police (Punishment and Appeals) Rules, 1956 to impose such punishment and therefore, he prayed to quash and set aside the impugned order to that extent.

4. Learned Advocate for the applicant has further submitted that the respondent No. 2 has passed the order in cases of similarly situated persons and treated the suspension period as duty period in view of the directions given by the respondent No. 3. He has submitted that in view of the directions given by the respondent No. 3, the said period cannot be treated as punishment in view of the provisions of Rule 3 and therefore, he directed the respondent No. 2 to take appropriate decision. Accordingly, the respondent No. 2 has taken the appropriate decision in that regard. He has submitted that in view of this, it is just to direct the respondent No. 2 to reconsider the case of the applicant as regards suspension period and decide the said issue as per the directions given by the respondent No. 3 in case of Shri V.N. Gaikwad and Shri B.H. Jagtap by letter dated 21.03.2016 and therefore, he prayed to allow the present O.A. to that extent and to quash and set aside the decision of the respondent Nos. 2 and 3 to the extent of imposing punishment treating his suspension period as it is.

5. Learned Presenting Officer has submitted that the necessary orders may be passed in that regard. He has further submitted that in case, if the Tribunal comes to the conclusion to direct the respondent No. 2 to decide the matter afresh to the extent of the suspension period of the applicant, then the reasonable time may be given to the respondent No. 2 to decide the matter.

6. On perusal of the record, it reveals that in case of similarly situated person, the respondent No. 3 has observed that the order regarding suspension period cannot be treated as it is in view of the provisions of Rule 3 of the Bombay Police (Punishment and Appeals) Rules 1956 and therefore, he directed the respondent No. 3 to reconsider the cases of Shri V.N. Gaikwad and Shri B.H. Jagtap. On the basis of direction given by the respondent No. 2, the respondent No. 2 had reconsidered those cases afresh and passed the necessary order as per the rules. Rule 3 also provides that the suspension period cannot be treated as punishment. Rule 5 and schedule given under rule does not provide that the decision regarding the period of suspension can be treated as punishment. In these circumstances, in my view, the order passed by the respondent No. 2 on 26.09.2014 in view of the Rule 5 of the Bombay Police

(Punishment and Appeals) Rules, 1956 treating suspension period of the applicant as punishment as it is, as the punishment is not in accordance with the rules. The respondent No. 3 has also not considered the said aspect while rejecting the appeal on 05.03.2015. In these circumstances, in my view, it is just and proper to quash and set aside the impugned order passed by the respondent No. 3 to the extent of imposing punishment on the applicant regarding the suspension period. Since the applicant has not pressed the another part of the punishment regarding withholding of annual increment for two years, there is no need to interfere in the said order passed by the respondent No. 2 is upheld. In view of this, O.A. deserves to be allowed partly.

7. In view of the discussions in foregoing paragraphs, the O.A. is partly allowed. The impugned order passed by the respondent No. 2 on 26.09.2014 and the respondent No. 3 in appeal on 05.03.2015 to the extent of “treating suspension period as it is” as a punishment is quashed and set aside. The matter relegated to the respondent No. 2 to reconsider the case of the applicant regarding the suspension period as per the rules and to decide the same within a period of three months from the

date of this order by giving proper opportunity to the applicant.

There shall be no order as to costs.

PLACE : AURANGABAD.

DATE : 11.12.2018.

(B.P. PATIL)

MEMBER (J)

KPB/S.B. O.A. No. 920 of 2017 BPP 2018 Suspension period dies