

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
MISCELLANEOUS APPLICATION NO.818 OF 2023
IN
ORIGINAL APPLICATION NO.273 OF 2023**

The Commissioner of Police,)
Central Ground, Thane)..Applicant
(Original
Respondent No.3)

Versus

1. Shri Bhimraj Rohidas Ghadge,)
R/at 1004, A Type, B-Wing, Wadhwa Medows,)
Bhoirwadi, Khadakpada, Kalyan (W),)
District Thane 421301)..Ori. Applicant
2. The State of Maharashtra,)
Through Additional Chief Secretary,)
Home Department, Mantralaya, Mumbai 400032)
3. The Director General of Police,)
Shahid Bhagat Singh Marg, Mumbai-1)..Respondents

Shri A.J. Chougule – Presenting Officer for Applicant-Original Respondent
No.3 and Respondents No.2 & 3

Shri S.B. Talekar – Advocate for Respondent No.1-original Applicant

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 17th January, 2024

PRONOUNCED ON: 24th January, 2024

J U D G M E N T

1. This MA is filed by the State seeking extension of time by two months for implementation of the judgment and order dated 22.11.2023 passed by this Tribunal in O. A. No.273/2023. This Tribunal had given the following directions:

“(B) The impugned order dated 16.2.2023 issued by the respondents is hereby quashed and set aside and the respondents are directed to regularize the period of suspension from 23.8.2015 to 28.11.2018 as duty period for all purposes and grant all the consequential service benefits. This exercise should be completed within a period of one month from today.”

2. Learned P.O. for the Respondent seeks extension of two months for implementing order dated 22.11.2023 passed in O.A.273/2023. He points out that office of Director General of Police, Mumbai is in the process of filing an Appeal before the Higher Forum and hence they are unable to decide the suspension period as per rules. Learned P.O. further points out that this Tribunal has granted one month time to implement the order from the date of order. However, the period ends on 22.12.2023 and hence Respondents seek extension of time.

3. Ld. Advocate for the respondent no.1-original applicant pointed out that the applicant-original respondent-authorities have not taken any steps until now for challenging the order of this Tribunal in the above OA. He further states that presuming the authorities intend to challenge the same, this can be challenged before the appropriate forum even after complying with the directions of this Tribunal.

4. Ld. Advocate for the respondent no.1-original applicant argues that it is a settled position of law that once this Tribunal has pronounced and signed the judgment and order it becomes functus officio and as such it cannot alter the terms set out in the original judgment and order. He states that this Tribunal had directed the respondents to comply with the directions of this Tribunal within a period of one month which is an integral part of the judgment and any extension of time granted for such compliance would amount to altering original judgment passed by this Tribunal which is not permissible. He relies on the judgment of the Hon'ble Supreme Court in **Grindlays Bank Ltd. Vs. Central Government Industrial Tribunal & Ors. 1980 (Supp) SCC 420**. Para 14 of the said judgment reads as under:

“14. The contention that the Tribunal had become functus officio and therefore, had no jurisdiction to set aside the ex parte award and that the Central Government alone could set it aside, does not commend to us. Sub-section (3) of s. 20 of the Act provides that the proceedings before the Tribunal would be deemed to continue till the date on which the award becomes enforceable under s. 17A. Under s. 17A of the Act, an award becomes enforceable on the expiry of 30 days from the date of its publication under s. 17. The proceedings with regard to a reference under s. 10 of the Act are, therefore, not deemed to be concluded until the expiry of 30 days from the publication of the award. Till then the Tribunal retains jurisdiction over the dispute referred to it for adjudication and upto that date it has the power to entertain an application in connection with such dispute. That stage is not reached till the award becomes enforceable under s. 17A. In the instant case, the Tribunal made the ex parte award on December 9, 1976. That award was published by the Central Government in the Gazette of India dated December 25, 1976. The application for setting aside the ex parte award was filed by respondent No. 3, acting on

behalf of respondents Nos. 5 to 17 on January 19, 1977 i.e., before the expiry of 30 days of its publication and was, therefore, rightly entertained by the Tribunal. It had jurisdiction to entertain it and decide it on merits. It was, however, urged that on April 12, 1977 the date on which the impugned order was passed the Tribunal had in any event become functus officio. We cannot accede to this argument. The jurisdiction of the Tribunal had to be seen on the date of the application made to it and not the date on which it passed the impugned order. There is no finality attached to an ex parte award because it is always subject to its being set aside on sufficient cause being shown. The Tribunal had the power to deal with an application properly made before it for setting aside the ex parte award and pass suitable orders.”

5. I have considered the submissions of both the sides. The order in O.A.No.273/2023 was passed on 22.11.2023 in which following directions were given :-

“(B) The impugned order dated 16.2.2023 issued by the respondents is hereby quashed and set aside and the respondents are directed to regularize the period of suspension from 23.8.2015 to 28.11.2018 as duty period for all purposes and grant all the consequential service benefits. This exercise should be completed within a period of one month from today.”

6. The Tribunal has already given enough time of one month for compliance. The Respondents ought to have taken necessary steps to comply the order passed by the Tribunal. Hence, I am not inclined to extend the time.

7. For the aforesaid reasons, I am not inclined to grant further time. Misc. Application is, therefore, dismissed.

ORDER

Misc. Application is dismissed with no order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
24.1.2024

Dictation taken by: S.G. Jawalkar.

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