

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 1016 OF 2017**

DISTRICT : PUNE

Shri Harish Ramchandra Das,)
Occ : Nil, R/at Flat no. 143, Bldg No. 12)
Netaji C.H.S Ltd, Netajinagar, Wanowrie,)
Pune 411 040.)...**Applicant**

Versus

The Addl. Director General of Police,)
Maharashtra State, Police Headquarters,)
Shahid Bhagat Singh Marg, Colaba,)
Mumbai 400 032.)...**Respondents**

Shri H.R Das, applicant in person.

Ms Archana B.K, learned Presenting Officer for the Respondents.

CORAM : **Shri Justice A.H Joshi (Chairman)**

DATE : **22.01.2019**

ORDER

1. Heard Shri H.R Das, applicant in person and Ms Archana B.K, learned Presenting Officer for the Respondents.

2. Case proceeds on following admitted background:-

- (a) Applicant was charge sheeted for misconduct.
- (b) During pendency of enquiry he was not under suspension.
- (c) By order dated 17.7.2014, Deputy Commissioner of Police, Headquarter-2, Pune, ordered dismissal of the applicant from service.

- (d) Applicant preferred appeal which was heard and decided by the Additional Director General of Police (Administration) by order dated 9.9.2015.
- (e) The operative part of the order dated 9.9.2015 reads as follows:-

“.....
मी, अर्चना त्यागी, अपर पोलीस महासंचालक (प्रशासन), (अतिरिक्त कार्यभार), महाराष्ट्र राज्य, मुंबई, याद्वारे माजी पोलीस नाई/२२४१, हरिष रामचंद्र दास यांना 'सेवेतून बडतर्फ' या शिर्षके पोलीस उप आयुक्त, मुख्यालय-२, पुणे शहर यांचे क्रमांक विचौ/आस्था/६१०/दास/२०१४/१०५३१, दि१७/०७/२०१४ चे अंतिम आदेश बाजुस सारून, त्यांच्यावर देवण्यात आलेल्या दोषरोपांसंबंधी विभागीय चौकशी पुर्ण होऊन आलेल्या समारोप अहवालाच्या अनुषंगाने, नव्याने निर्णय घेण्याच्या टप्प्यापासून म्हणजेच कारणे दाखवा नोटीस देण्याच्या टप्प्यापासून, योग्य त्या नियुक्ती प्राधिका-याकडून प्रस्तुत विभागीय चौकशीमध्ये अंतिम निर्णय घेण्याचे आदेश देत आहे.

२. सदर आदेशाचा परिणाम म्हणून पोलीस नाईक/२२४१, हरिष रामचंद्र दास हे ज्या दिवशी सेवेत हजर त्या दिवसापासून त्यांना सेवेत पुनःस्थापित करण्यात यावे.

.....”

(Quoted from page 36 of the O.A)

3. After completing the departmental enquiry, by order dated 15.6.2016, he was again dismissed from service, and before dismissal ordered on 15.6.2016 applicant was actually reinstated and has served.

4. Applicant has carried the order of dismissal dated 15.6.2016 in appeal before the Government and today learned Presenting Officer has reports that now even that appeal has been dismissed.

5. Admittedly, the dismissal order of the applicant was set aside by the competent authority with a positive fact finding as recorded in the order dated 9.9.2015, as is evident from para 2 thereof. Text whereof reads as follows:-

“.....
जर अपिलार्थी माजी पो.ना/२२४१/ हरिष रामचंद्र दास यांचे नियुक्ती प्राधिकारी अपर पोलीस आयुक्त दर्जाचे अधिकारी आहेत तर त्यांना सेवेतून बडतर्फ करणेबाबडतचे अंतिम आदेश देखील अपर पोलीस आयुक्त दर्जाच्या अधिका-याच्या स्वाक्षरीनेच निर्गमित करणे आवश्यक होते. परंतु या प्रकरणात तसे केल्याचे दिसून येत नाही. म्हणून अपिलार्थी माजी पो.ना/२२४१ हरिष रामचंद्र दास यांच्यावरील दोषारोप विभागीय चौकशीत सिध्द होत असले. तरी अपिलार्थी यांना पोलीस उप आयुक्त दर्जाच्या प्राधिकारी यांनी सेवेतून बडतर्फ करणे ही शिक्षा देण्याबाबतचे निर्गमित केलेले दिनांक १७.७.२०१४ चे अंतिम आदेश नियमबाह्य ठरतात. केवळ याच मुद्दयावर अपिलार्थी यांनी आढावित केलेले आदेश रद्द करणे क्रमप्राप्त ठरते. म्हणून या प्रकरणात मी खालीलप्रमाणे आदेश देत आहे.”

(Quoted from page 36 of O.A).

6. Limited prayer contained in the present Original Application is whether applicant is entitled to full salary and allowances for the period

between the period-date 17.7.2014 and his actual reinstatement pursuant to order dated 9.9.2015.

7. In the background that the order of dismissal has been set aside and applicant has been reinstated, applicant would be entitled to full salary and allowances during the period of unemployment.

8. Had it been a case that applicant was under suspension, the situation would have been liable to be dealt with differently which eventuality is not a fact of matter.

9. No fault is attributable to the applicant as a ground due to which the order of removal has been set aside.

10. Applicant has placed reliance on the judgment of the Hon'ble Supreme Court in Pranal Manilal Parikh Vs. State of Gujarat, (1995) IILLJ 690 SC.

11. In the peculiar facts and circumstances, namely applicant was not under suspension, applicant shall be entitled to all consequential benefits as regards monetary benefits treating that he was under employment between 17.7.2014 and date of actual reinstatement after 9.9.2015.

12. Nothing is shown by the State which would disentitle the applicant from salary and allowances for intervening period.

13. In the facts and circumstances of the case, parties are directed to bear their own costs.

(A.H. Joshi, J.)
Chairman

Place : Mumbai
Date : 22.01.2019
Dictation taken by : A.K. Nair.