

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 373 OF 2021  
WITH  
MISC APPLICATION NO 104 OF 2022**

**DISTRICT : THANE**

Shri Arunkumar Kashiram Jadhav, )  
Working as Deputy Director, )  
Caste Scrutiny Committee [Tribal], )  
Having office at Thane. )  
R/o: Flat no. 971, Vijay Garden Society, )  
Kavesar, Ghodbunder Roaad, )  
Thane. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through Principal Secretary, )  
Tribal Development Department, )  
Having office at Mantralaya, )  
Mumbai 400 032. )

2. The Addl. Chief Secretary, )  
General Administration Department,) )  
Having office at Mantralay, )  
Mumbai 400 032. )...**Respondents**

Shri B.A Bandiwadekar, learned advocate for the Applicant.

Smt K.S Gaikwad, learned Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)**

**Mrs Medha Gadgil (Member) (A)**

**DATE : 22.11.2022**

**PER : Justice Mridula Bhatkar (Chairperson)**

**J U D G M E N T**

1. The applicant prays that this Tribunal be pleased to hold and declare that the applicant is deemed to be regular /permanent

Class-I office in the post of Project Officer having deemed to have satisfactorily completed the probation period as per G.R dated 21.3.2000 and further prays for consequential service benefits.

2. The applicant was appointed on 10.4.2006 as Project Officer, Tribal Development Department. Thus, he was supposed to have completed his probation period on 10.4.2008. If at all it is not completed and no order is passed in respect of extension of the period of probation of 2 years, then as per clause 5 of the G.R dated 29.2.2016, within 3 months the Government should take decision and issue the orders either of completion of the probation period or to extend the probation period. We note that there is no such deeming provision mentioned in the G.R, though it is contended by the learned counsel for the applicant about the deeming provision. The Respondent-State was thus supposed to pass the order either of extension of the probation period or satisfactory completion of the probation period on or before 10.7.2008. However, the said order was not passed. Learned counsel for the applicant submits that one of his colleague Mr Hariram Madhavi, who was also Project Officer was facing the criminal offence under the Prevention of Corruption Act and his probation was not completed for many years. However, after he superannuated on 28.2.2017, the probation period was terminated by order dated 27.1.2020. Learned counsel for the applicant prays for parity.

3. Learned P.O while opposing the application submitted that though the applicant is in service and as criminal case is pending against him, therefore, his probation period is not completed. Learned P.O further submitted that the applicant has availed leave of 31 days during his probation period.

4. On going through the facts of the case and the submissions of the learned counsel for the applicant, we found that on 27.9.2008, first FIR was registered against the applicant at Kelapur Police Station for offence of forgery under Sections 409 & 467 of IPC and second FIR was registered on 4.8.2009 under sections 420 & 468 of I.P.C. It is the case of the applicant that the Respondents have initiated two departmental enquiries against the applicant on the basis of these criminal cases. However, the applicant is exonerated in the first departmental enquiry on 17.8,2020 and in the second departmental enquiry on 13.1.2022. However, the two criminal cases of cheating and forgery is pending against the applicant before the J.M.F.C, Akola. Learned counsel for the applicant further submitted that C.R No. 95/2009 is registered by the Pandharkawla Police Station before the Chief Judicial Magistrate, F.C, Kelapur and another case bearing no. 207/2008 is pending at Yeotmal. In both the cases the offences are of serious nature, i.e., of cheating and forgery.

5. We are of the view that the State has power to pass order regarding completion, rejection or extension of the probation period. However, as per clause 5 of the G.R dated 29.2.2016, a specific period is laid down to take decision either completion of the probation period or extension of the probation period. Thus, the two years' probation period of the applicant was over on 10.4.2008. Hence, three months thereafter on or before 10.7.2008 the applicant should have been informed in writing whether his period of probation was extended or not. On our query it was informed that the Respondent-State did not communicate in writing to the applicant that his period of probation is extended for whatever reasons available. If such a communication has taken place from the Respondent-State, the copy of the said letter should have been produced before the Tribunal. However, such

communication is not produced before us. Hence, we infer and conclude that the provision of clause 5 of the G.R dated 29.2.2016 is not followed by the Respondent-State. Admittedly, two criminal cases of serious nature are pending against the applicant. However, so far as the probation period is concerned the Respondent-State has not terminated the services of the applicant after two years on account of unsatisfactory service and allowed him to work for more than 17 years, i.e., till today. In view of the above, we pass the following order:-

**ORDER**

- (a) The Original Application is allowed.
- (b) As the applicant has availed leave of 31 days during his probation period, we direct the Respondent-State to issue the order of completion of his probation period by counting the period of 31 days which may extend the period of probation by 31 days.
- (c) The order of satisfactory completion of the probation period should be issued by the Respondent-State within a week.
- (c) In view of the order passed in the Original Application, Misc Application No. 104/2022 does not survive and is disposed of.

**Sd/-**  
**(Medha Gadgil)**  
**Member (A)**

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 22.11.2022**  
**Dictation taken by : A.K. Nair.**