

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO 465 OF 2022**

**DISTRICT : MUMBAI**

Shri Pralhad Balaji Sonawane )  
Retd as Superintendent of Police [PCR], )  
R/at 5/3, Chandrodaya Society, )  
S.G Barve Marg, Chembur, )  
Mumbai 400 071. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through the Addl. Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai 400 032. )
2. Director General of Police, )  
Maharashtra State, Mumbai. )  
Maharashtra Police Headquarters, )  
S.B.S Marg, Colaba, )  
Mumbai 400 001. )
3. Additional Director General of Police,)  
Training & Special Units, )  
Maharashtra State, Mumbai. )  
Maharashtra Police Headquarter, )  
S.B.S Marg, Colaba, )  
Mumbai 400 001. )
4. Additional Director General of Police )  
Protection of Civil Rights, )  
Maharashtra State, Mumbai. )...**Respondents**

Smt Punam Mahajan, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM** : **Justice Mridula Bhatkar (Chairperson)**  
**Mrs Medha Gadgil (Member) (A)**

**DATE** : **01.08.2022**

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

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

1. In this Original Application, the applicant has challenged the departmental enquiry initiated on 30.10.2012 and grant all the consequential service benefits such as gratuity and other pensionary benefits with interest. The said departmental enquiry which is still pending till the applicant filed this Original Application on 19.5.2022.

2. Learned counsel for the applicant submitted that the departmental enquiry should be stayed mainly on the ground that the same is pending since 2012. Learned counsel for the applicant submitted that the Enquiry Officer has submitted the report on 27.12.2019 and still the Disciplinary Authority has not taken any steps. Learned counsel for the applicant submits that the applicant is not facing any serious charges and he is held guilty for minor charges.

3. Learned counsel for the applicant relied on the following decisions:-

- (i) PREM NATH BALI Vs. REGISTRAR, HIGH COURT OF DELHI & ANR, (2015) 16 SCC 415.
- (ii) Judgment of this Tribunal dated 7.7.2022 in O.A 927/2017, Shri GULAB D. JADHAV Vs. THE SUPERINTENDING ENGINEER & ORS.

4. Learned C.P.O submitted that the applicant is held guilty in respect of Charges No 2, 4, 5 & 6 and charge no. 3 is partly proved. Learned C.P.O submitted that the Disciplinary Authority has issued second show cause notice dated 28.6.2022 to the applicant as to why 3% amount of pension should not be deducted for a period of one year only.

5. In the case of PREM NATH BALI (supra), the Hon'ble Supreme Court observed as under:-

“28. Keeping these factors in mind, we are of the considered opinion that every employer (whether State or Private) must take sincere endeavour to conclude the departmental enquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time-frame then efforts should be made to conclude within the reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

6. In the case of Shri GULAB D. JADHAV (supra), the applicant has challenged initiation of two departmental enquiry by charge sheet issued in July, 2012 and June, 2017 mainly on the ground

that the departmental enquiry had not attained finality though period of 11/12 years is over. The Tribunal observed as under:-

“The Department has proposed punishment of deduction of 6% pension for one year by letter dated 22.2.2022 to which the applicant has submitted reply immediately, but thereafter also, no final order is passed. It is nowhere the case of the Respondent that proceedings of 2<sup>nd</sup> D.E were delayed because of non-cooperation or fault on the part of applicant. As such, in 2<sup>nd</sup> D.E also though period of more than 5 years is over, it has not culminated into final order.”

Further it was observed that:-

“The charges are relating to certain irregularities and there are no such serious charges of misappropriation of Government money or loss to public exchequer or any kind of mal-practice or dishonesty.”

The Tribunal held as under:-

“In this view of the matter, in the light of legal principles highlighted by Hon’ble Supreme Court in Radhakishan’s case and time limit of one year as observed by Hon’ble Supreme Court in Prem Nath Bali’s case, there being absolutely no explanation for inordinate and huge delay coupled with the fact that applicant was subjected to two DEs for same charges, we are constrained to conclude the D.Es are liable to be quashed.”

7. On query, we are informed that the second show cause notice is not served on the applicant till date. It is a very sorry

state of affair that when the matter was filed on 19.5.2022 and the notice was issued to the Department on 10.6.2022, we find that Department was completely negligent in taking quick steps which they could have taken pursuant to the report submitted by the Enquiry Officer, who held the applicant guilty of Charges no 2, 4, 5 & 6 and charge no. 3 as partly proved. The charges are mainly of misconduct against the applicant pertaining to the lethargic administration, incompetent to become Supervisor of Women Police Training School. The charges are not of nature of corruption, breach of trust or moral turpitude. We also fail to understand the time consumed by the Enquiry Officer for more than 7 years. We were informed by the learned C.P.O that in the year 2012 there was fire in Mantralaya and the entire file was reconstructed and enquiry commenced. Assuming that the Enquiry Officer has submitted the report in December, 2019, the fact remains that the Disciplinary Authority took five years to take final decision in the matter. Though the Respondents were hard pressed due to Covid-19 Pandemic, there is a delay and the Respondents have failed to take quick steps to pass final order in the departmental enquiry.

8. Moreover, the applicant has retired in the year 2012 and he is not paid his gratuity and regular pension since last 10 years. Deprivation of gratuity and regular pension for a period of 10 years cannot be justified. Hence, in view of the judgment of the Hon'ble Supreme Court in the case of PREM NATH BALI (supra) and the Judgment of this Tribunal in Shri Gulab D. Jadhav's case (supra), we pass the following order:-

### **ORDER**

(a) The Original Application is allowed.

- (b) The departmental enquiry initiated against the applicant by charge sheet dated 30.10.2012 is hereby quashed and set aside.
- (c) The Respondents are directed to pay gratuity and other pensionary benefits to the applicant with interest as per rules within a period of four months from the date of this order.

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

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

**Place : Mumbai**  
**Date : 01.08.2022**  
**Dictation taken by : A.K. Nair.**