

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 04 of 2022 (S.B.)

Sunil Gangaram Dhote,
aged about 52 years, Occ. Service (Police Naik),
R/o Chhabada Plot Amravati,
Tah. and Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Principal Secretary,
Home Department, Mantralaya, Mumbai-32.
- 2) The Director General of Police (M.S.),
Near Regal Cinema, Mumbai.
- 3) The Commissioner of Police,
Amravati, Amravati City, Amravati.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.
Shri H.K. Pande, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 03/03/2023.

J U D G M E N T

Heard Shri S.N. Gaikwad, learned counsel for the applicant and Shri H.K. Pande, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was appointed in the year 1991 on the post of Police Constable. When the applicant was posted at Police Station, Faizarpura an offence punishable u/s 7,12,13 (1) (d) R/w 13 of the

Prevention of Corruption Act, vide Crime No.3049/2002 was registered against him. Therefore, the applicant was suspended. During the investigation, it was revealed that there was no evidence and permission to prosecute the applicant was also not granted and therefore "A" summary was filed. The applicant was discharged by the Special Court. After the discharge of the applicant, the respondent no.3 revoked the suspension as per the order dated 22/06/2004, but his suspension period was not decided. In the said order, it is mentioned that suspension period will be decided after completion of the departmental inquiry. Even after completion of the departmental inquiry, the respondent no.3 treated the suspension period for not calculating as a duty period.

3. Heard Shri H.K. Pande, learned P.O. for the respondents. The O.A. is strongly opposed by the respondents. It is submitted that the applicant was discharged, but in the departmental inquiry, he is punished. Therefore, the O.A. is liable to be dismissed.

4. During the submission, the learned counsel for the applicant has pointed out the Judgment of this Tribunal in O.A.No.814/2022. In the cited Judgment, this Tribunal has held that when there was no evidence against the applicant / delinquent employee, the suspension period cannot be treated it as without duty period. The applicant was suspended because of the criminal

complaint lodged against him and the applicant was discharged by the Special Court in view of the "A" summary submitted by the Investigating Agency. In the "A" summary, it was mentioned that there was no evidence against the applicant and therefore the applicant was discharged. When the applicant was discharged, it appears that there was no any evidence against the applicant. Hence, the suspension period cannot be treated for not calculating as a duty period. In that view of the matter, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned order passed by respondent no.3, dated 11/07/2018 is hereby quashed and set aside.
- (iii) The respondents are directed to count the suspension period of applicant as a duty period and pay consequential benefits within three months from the date of receipt of this order.
- (iv) No order as to costs.

Dated :- 03/03/2023.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 03/03/2023.