

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.233/2015. (D.B.)

Deepak Krishnaji Dekate,
Aged about 50 years,
Occ- Service,
R/o Control Room, Washim,
Distt. Washim.

Applicant.

-Versus-

- 1) The State of Maharashtra,
Through its Additional Chief Secretary,
Department of Home,
Mantralaya, Mumbai-400 032.
- 2) The Director General of Police,
Having its office at Near Regal Theatre,
Colaba, Mumbai.

Respondents

Shri S.P. Palshikar, the learned counsel for the applicant.
Shri A.P. Potnis, the learned P.O. for the respondents.

Coram:-Shri Shree Bhagwan, Vice-Chairman
and
Shri A.D. Karanjkar, Member (J)

ORAL JUDGMENT

Per: Member (J)

(Delivered on this 4th day of July 2019)

Heard Shri S.P. Palshikar, the Ld. counsel for the applicant and Shri A.P. Potnis, the learned P.O. for the respondents.

2. It is grievance of the applicant that he was prosecuted for the offence punishable U/s 302, 201, 330 and 342 r/w section 34 of

the Indian Penal Code. The applicant was convicted for the offence punishable U/s 330 of the Indian Penal Code and Trial Court sentenced him to suffer imprisonment for three years. After this judgment, the applicant was dismissed from service vide order dated 20.8.2013. The applicant preferred an appeal against the order of conviction and in Criminal Appeal No. 552/2011, Criminal Application No. 729/2013 was moved by the applicant and on 24.2.2014, the Hon'ble High Court passed the order and stayed the conviction. Taking into consideration this background, the Government of Maharashtra passed the order dated 24.2.2015 and by this order, the Government of Maharashtra decided to withdraw the order of dismissal dated 20.8.2013 and directed to reinstate the applicant in service.

3. It is submission of the Ld. counsel for the applicant that as conviction was not on force, therefore, the Government has decided to withdraw the order of dismissal and reinstated the applicant in service on the same post. It is submitted that by passing the orders dated 24.2.2015 and 31.3.2015 direction was given to reinstate the applicant in service on the post of Assistant Police Inspector with initial pay in the pay scale. It is submitted that this order is illegal for the reason that the applicant was drawing

salary i.e. basic pay of Rs. 22940/- plus DA and other allowances. Now as per this order, as the applicant is reinstated in service, at initial stage, he has lost all increments which were earned by him due to length of his service. We have perused the salary slip of the applicant issued in August 2013. This pay slip discloses that the applicant's pay band was Rs. 9300-34800 plus grade pay of Rs. 4400/- and other allowances.

4. We have heard respective submissions on behalf of the respondents. The learned P.O. has attempted to justify the order, but apparently as the order of dismissal itself was withdrawn by the Government, the Government was bound to reinstate the applicant in service on the same post and salary which was at the time of dismissal. It seems that without examining this legal position, order was passed and direction was given to reinstate the applicant in service on the same post, but at initial basic pay. In view of this discussion, we are compelled to say that we cannot justify this order. Hence, directions are necessary to modify the orders dated 24.2.2015 and 31.3.2015. In the result, we pass the following order:-

ORDER

- (i) O.A. stands allowed in terms of prayer clauses (i) and (ii).
- (ii) The respondents are directed to comply this order within a period of three months.
- (iii) No order as to costs.

(A.D. Karanjkar)
Member (J)

(Shree Bhagwan)
Vice-Chairman

Dt. 4.7.2019.
Pdg

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

Name of Steno/PA : P.D. Girhale, Personal Assistant

Court Name : Court of Hon'ble VC and Member (J)

Judgment signed on : Pronounced on 4th July 2019
and pronounced on and Signed on 4th July 2019.
Date

Uploaded on date : 5th July 2019.
