

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION 591 OF 2015

DISTRICT : PUNE

Shri Balu Ramdas Sangle)
Occ : Nil, R/at: 5 Gurwar Peth,)
Amey Apartments, Sheitala Devi Chowk,)
Pune - 42.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)
2. The Commissioner of Police,)
Pune City, Sadhu Vaswani Road,)
Near G.P.O, Camp, Pune 411 001.)
3. The Additional Commissioner of)
Police, Sadhu Vaswani Road,)
Near GPO Camp, Pune 411 001.)...**Respondents**

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Shri K.R Jagdale, learned advocate for the Applicant.

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

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B. Malik (Member) (J)

DATE : 28.07.2016

PER : Shri R.B. Malik (Member) (J)

ORDER

1. Heard Shri K.R Jagdale, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

2. This Original Application can, in view of the subsequent development, in fact, as recent as 21.7.2016 be now disposed of with observations that will be presently made.

3. This Original Application was brought seeking directions for quashing the order of dismissal which in turn was under the provisions of Section 311(2) of the Constitution of India. The same relief in relation to a communication dated 24.2.2015 from the first

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Respondent was sought. A further prayer was made to treat the period from date of dismissal from service till reinstatement as period spent on duty and lastly pensionary benefits were also claimed.

4. We have perused the record and proceedings. The Applicant was working as Police Constable (P.C). There were allegations against him of he having committed the dreadful offence of rape. He stood trial before the Court of Sessions Judge, Pune and was convicted and sentenced by order dated 26.11.1993. As a result of the said conviction and sentence, he came to be dismissed from service on 31.12.1993. He preferred an appeal against the order of the Sessions Court before the Hon'ble High Court, Bombay and ultimately by order in Criminal Appeal No. 25/1994 (Shri Balu Ramdas Sangle Vs. The State of Maharashtra), that appeal came to be allowed on 21.4.2011. There are certain observations made by this very bench in an earlier Original Application brought by the Applicant in O.A 1207/2013 (Shri B.R Sangle Vs. Commissioner of Police, Pune City) 25.8.2014, which would show that post acquittal the Applicant ran from pillar to post to get his dues on the administrative side including his reinstatement, because according to him the conviction and sentence was the only reason why he came to be dismissed from service, but there was no movement at all on behalf of the Respondents in that Original Application. We remitted



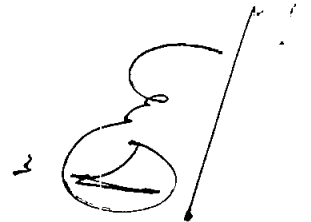
the matter back to the Additional Chief Secretary, Home Department, before whom the appeal came to be preferred was pending to take a decision therein within four weeks from the day of our order and communicate the same to the Applicant within one week thereafter. The said authority was directed to consider the matter in the light of the observations made in the body of our order and further in the light of the judgment of the Hon. Supreme Court in **The Commissioner of Police, New Delhi Vs. Meher Singh (2013 III CLR 890, dated 2nd July, 2013 (SC)**.

5. It appears that despite the language in which the final order was couched the administrative appeal was dismissed on 24.2.2015. Ultimately, the Applicant brought this Original Application and on 4.5.2016 the Hon. Chairman was pleased to make the following order in the farad sheet:-

“1. Heard Shri K.R. Jagdale, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

2. Learned Advocate for the Applicant has tendered rejoinder. It is taken on record.

3. Paragraph No. 7.7 of O.A. contains averments as follows:-



“Now the Applicant came to be acquitted by the Hon’ble High Court hence he was entitled for reinstatement with consequential benefits.”

4. It contains a statement that after acquittal of the Applicant the dismissal which was solely based on the verdict of convention is liable to be set aside.

5. The averments are replied by the State Government through the affidavit filed by Deputy Secretary, Home Department, in an evasive manner.

6. Therefore Principal Secretary, Home Department who is dealing with the aspect should file his own affidavit, unless a decision to revoke the order of dismissal is taken.

7. Steno copy and Hamdast is allowed to learned P.O. to communicate this order to the Respondents.

8. S.O. to 4.07.2016.”

It was thereafter that an order which has been referred to at the outset came to be made by the Home Department, Respondent no. 1 dated 21.7.2016. The same is taken on record and for facility marked as Exh. ‘A’. The said order deals with the history that has been set out by us

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hereinabove and this refers to the present Original Application and recites as follows:-

“४. शासनाच्या दि.२४/०२/२०१५ च्या आदेशाविरुद्ध श्री. सांगळे मा. मॅट मुंबई येथे मुळ अर्ज क्रमांक ५९१/२०१५ दाखल केला. अर्जदारानी सेवेतून बरखास्ती ही मा. सत्र न्यायालयातील दोषीत्वाच्या निर्णयाच्या आधारे असल्यामुळे व मा. उच्च न्यायालयात ते निर्दोष ठरल्यामुळे त्यांचे सेवेतून बरखास्तीचे आदेश हे बाजूला सारण्यास पात्र आहेत, असा मुद्दा अर्जदाराने उपस्थित केलेला आहे. सदर मुळ अर्जावर मा. न्यायाधिकरणाने दि. ०४/०५/२०१६ रोजीच्या आदेशात अपिलार्थीच्या मूळ अर्जातील परिच्छेद क्र.७.७ मध्ये “ ऑप्लीकंटला मा. उच्च न्यायालयाने निर्दोष मुक्त केलेले असल्यामुळे ते सर्व सेवाविषयक लाभासह सेवेत पुनःस्थापीत होण्यास पात्र ठरतात” या मुद्दाबाबत शासनाने निर्णय द्यावा अथवा प्रधान सचिव यांनी शपथ पत्र दाखल करावे, असे निर्देश दिले.

५. सदर प्रकरणी मा. उच्च न्यायालय, मुंबई यांनी श्री. सांगळे यांना दि.१/४/२०११ च्या आदेशानुसार निर्दोष मुक्त केले आहे. त्याचप्रमाणे मा. उच्च न्यायालयाच्या निर्णयाविरुद्ध मा. सर्वोच्च न्यायालय, नवी दिल्ली येथे दाखल केलेली एस.एल.पी.क्रमांक डी.वाय.क्र.३८८३३/२०१४ दि. २६/११/२०१४ रोजी खारील झाले आहे. तसेच मा. मॅट मुंबई येथे दाखल मुळ अर्जावर मा. न्यायाधिकरणाचे दि.४/५/२०१६ चे आदेश तसेच श्री. सांगळे यांची वभागीय चौकशी करण्यात आली नाही, या सर्व बाबींचा विचार करून श्री. बी. आर.सांगळे यांना सर्व सेवाविषयक लाभासह सेवेत पुनःस्थापीत करण्याचा शासनाने निर्णय घेतला आहे.

६. श्री. सांगळे यांना पोलीस आयुक्त, पुणे शहर यांनी सेवेत पुनःस्थापीत करून घेण्याची कार्यवाही करावी. त्यांचा सेवाबाहय कालावधी नियमित करणेबाबत स्वतंत्र आदेश काढण्यात येईल. याकरिता श्री. बी.आर. सांगळे यांनी ते पुनःस्थापीत झाल्यानंतर विहित मार्गाने एक महिन्याच्या आत शासनाकडे अर्ज करावा.”


6. It is not necessary for us now to travel beyond the express text of the order above referred to. If we have correctly understood the apprehension of Shri Jagdale, it is that despite the order under reference it is possible that a proper decision with regard to treating the period

post dismissal till reinstatement may not be taken and he may face problems with regard to the pensionary aspect of his case. As a matter of fact, there was some doubt expressed with regard to the fact that there are directions for reinstatement while the Applicant has retired on 31.8.2014.

7. Now as to the last point, we find that the issue with regard to reinstatement will have to be understood in the context. He had been dismissed and had been longing for reinstatement. Unless formal order of reinstatement was made, any subsequent relief could not have been granted to him and therefore, we do not think that the directions with regard to reinstatement is pregnant with any adversity as far as the Applicant is concerned. In fact, such a direction was necessary.

8. Shri Jagdale referred us to decision in the case of **Baban Shriram Wafare Vs. Zilla Parisha, Ahmednagar, Writ Petition no 2883 of 1989, dated 3.10.2001, (High Court of Bombay, Aurangabad Bench)**. Para 6 thereof needs to be fully reproduced. We do hereby do.

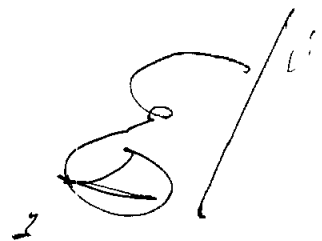
“6. In the result, we allow the petition and quash and set aside the order dated 24.7.1986 and 29.11.1988 as well as the order dated 30.4.1989. We hold that the petitioner, on his acquittal by this



Court, was entitled for reinstatement in service with continuity and other consequential benefits including pay and its fixation as if he continued in service in the absence of the criminal case registered and decided against him. The respondent Zilla Parishad is therefore, directed to take appropriate steps for revision of the petitioner's pensionary benefits and also payment of arrears if any. This shall be done within a period of two months from today."

The record makes it clear that the Hon'ble High Court having acquitted the Applicant and the said acquittal having been confirmed by the Hon. Supreme Court, when the Special Leave Petition was dismissed, the stigma does no more remain and the Applicant will be entitled to get his dues as if he had always continued in service and that would be true not just with regard to his service benefits, but also pensionary and post retiral benefits as well, which learned Presenting Officer, points out, is bound to take time.

9. We make it clear that the authorities shall consider the legal position arising out of the present facts as enunciated in the various orders of this Tribunal as well as principles of law emanating from the binding judgments discussed above. With these directions, the Original Application stands disposed of with no order as

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to costs. Compliance within four months from today and decision be communicated to the Applicant within one week thereafter.

Sd/-
(R.B. Malik)
Member (J)

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 28.07.2016
Dictation taken by : A.K. Nair.

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