

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 675/2017

Ramesh Malukdas Gour,
Aged 59 years, Occ. Retired Govt. Servant,
R/o 199-A, Bajeria, Santra Market road, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Medical Education and Research,
Mantralaya, Mumbai-32.
- 2) Director
Medical Education and Research,
St. Georges Hospital Compound,
Dental College Building, Fort,
Mumbai-01.
- 3) Dean,
Indira Gandhi Government Medical College,
Nagpur.

Respondents.

Shri R.V. Shiralkar, Advocate for the applicant.

Shri S.A. Sainis, P.O. for the respondents.

**Coram :- Hon'ble Shri A.D. Karanjkar,
Member (J).**

JUDGMENT

(Passed on this 13th day of December,2018)

Heard Shri R.V. Shiralkar, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. The applicant was suspended by the respondent no.3 vide order dt/ 3-7-2010 from the service. The applicant was office bearer of one Co-operative Society and as the applicant was in custody for a period more than 48 hours, the applicant was placed under suspension vide order dated 3rd July,2010 w.e.f. 29/04/2010. Various representations were made by the applicant to the respondents to revoke the suspension as criminal case was not relating to his official work or official duty, but nothing was done. Ultimately the applicant requested for retirement from the service and he was permitted to retire vide order dated 21/05/2015. The applicant requested the respondents to pass suitable order regarding his suspension period, but no action was taken, consequently this O.A. is filed by the applicant. The respondents submitted reply at page no.18 of the P.B. and have opposed the application.

3. During the hearing of this matter, it came to my notice that the applicant preferred Criminal Revision no.92/2016 and the learned Additional District Judge, Court No.11 after hearing the applicant came to the conclusion that there was no prima facie material for framing the charge against the applicant, the learned Additional Sessions Judge allowed the Criminal revision and discharged the applicant from the Crime no.107/2010. In spite of impugned order dated 12/04/2008 no substantial relief was granted to the applicant.

4. The learned P.O. today submitted before the Bench order dated 13/12/2018 passed by the Director, Medical Education and Research Department, Mumbai. It is observed in this order that vide order dated 21/12/2015 the learned JMFC Court No.10, Nagpur convicted the applicant and thereafter the Court of the Additional Sessions Judge Court No.11, Nagpur allowed the Revision and acquitted the applicant. In view of this order, the learned Director decided to regularize the suspension period and directed to pay 95% salary and allowances to the applicant, but finally decided that suspension period not to be treated as duty period. Apparently the order passed by the Director is contrary to the facts of the case, even it is not case of the respondents that the applicant was convicted at any time and later on the applicant is acquitted. It seems from the facts that the applicant was discharged by the Additional Sessions Judge, Nagpur as there was no prima facie material to frame any charge against the applicant. On the basis of this finding recorded by the learned Additional Sessions Judge the respondents should have held that the suspension of the applicant was not called for and therefore, the Director should have passed the order treating the suspension period as duty period and ought to have directed to pay and all the allowances to the applicant, but as it was not done, therefore, interference is required. Hence, the following order :-

ORDER

The application is allowed. The suspension period from 29/04/2010 to 13/08/2014 be treated as duty period. The respondents are directed to pay salary and all allowances of this period to the applicant within four months from the date of this order together with the increments, if the applicant was entitled for the same during period of suspension. The respondents are also directed to do revise the pay and pension accordingly. No order as to costs.

Dated :- 13/12/2018.

*dnk.

(A.D. Karanjkar)
Member (J).