

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO. 688 OF 2015

DISTRICT :Pune

Chandrakant s/o Malkappa Gaikwad,)
Age:54 Yrs, Occ: Service,)
R/O, Railway Police Quarter,)
Near Court, Daund, Tq. Daund,)
Dist. Pune.)...**Applicant**

VERSUS

1. The State of Maharashtra,)
Through the Secretary,)
Home Department,)
Mantralaya, Mumbai – 32.)
(Copy to be served on the Chief)
Presenting Officer Maharashtra)
Tribunal Of Bombay))
2. The Additional Director General,)
Of Railway Police, Maharashtra State,)
Church Gate, Railway Station,)
1st Floor, Mumbai.)
3. The Superintendent of Railway Police,)
Sangam Bridge, CID Compound,)
Shivaji Nagar, Pune -5.)....**Respondents**

Shri H.P. Jadhav, learned Advocate for the Applicant.

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

CORAM : Shri Rajiv Agarwal, Vice-Chairman

DATE : 29.07.2016

ORDER

1. Heard Shri H.P. Jadhav, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.
2. This Original Application has been filed by the Applicant seeking regularisation of period from 13.08.2012 to 20.11.2013 (465 days). The Applicant was out of service during this period due to termination of his service by order dated 13.08.2012.
3. Learned Counsel for the Applicant argued that he was convicted by the Judicial Magistrate, First Class, Omerga by order dated 21.12.2011 in RCC No.185 of 2002. He was removed from service by order dated 13.08.2012 by the Respondent No.3. Learned Additional Sessions Judge, Omerga in Criminal Appeal No.1 of 2012 by judgment dated 28.1.2013, acquitted the Applicant. Ultimately after intervention by this Tribunal by judgment dated 1.10.2013 in O.A.No.854 of 2013 filed by the Applicant, the Respondent No.3 passed order dated 14.11.2013 taking the Applicant back in service. The Applicant rejoined on 21.11.2013. The Applicant was out of service due to removal from service from 13.8.2012 to 20.11.2013. Learned Counsel for the Applicant argued that under Rule 70 (4) of the Maharashtra Civil Services (Joining Time, Foreign Service and Payment During Suspension, Dismissal and Removal) Rules, 1981, the

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Applicant is entitled to get full pay for this period of 465 days.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the present O.A. is pre-mature. The Respondents have filed Criminal Appeal No.711 of 2015 against the order of acquittal passed by the Additional Session Judge, Omerga before Hon'ble Bombay High Court. While admitting the appeal by order dated 3.9.2015, Hon'ble High Court has observed that the State has made out an arguable case. The appeal is still pending. Learned P.O. argued that decision on how to treat the period of absence of duty can be taken only after the criminal appeal is finally decided by Hon'ble High Court.

5. The Applicant had earlier filed O.A.No.854 of 2013 before this Tribunal seeking reinstatement in service in view of his acquittal in criminal case in appeal. During the pendency of that O.A., the present Respondent No.2 has reinstated the Applicant in service by order dated 14.11.2013. This Tribunal had not passed any order in O.A.No.854 of 2013. Rule 70 of the Maharashtra Civil Services (Joining Time etc) Rules is applicable when an order of removal is set aside as a result of appeal or review in Departmental Proceedings. In the present case, the Applicant has to await the result of criminal appeal pending in Hon'ble Bombay High Court against his acquittal in the Criminal Case. The matter is yet to reach finality and the relief sought by the Applicant is premature.



6. Having regard to the aforesaid facts and circumstances of this case, this O.A. is dismissed with no order as to costs.

Sd/-

(RAJIV AGARWAL)
(VICE-CHAIRMAN)

Date : 29.07.2016

Place : Mumbai

Dictation taken by : SBA

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