

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 785 OF 2017**

**DISTRICT : PUNE**

Shri Giridhar Nakul Yadav, )  
Occ : Assistant Police Inspector )  
under suspension, )  
Hadapsar Police Station, Pune. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through the Secretary, )  
Home Department, Mantralaya, )  
Mumbai 400 032. )  
2. The Commissioner of Police, )  
Pune. )...**Respondents**

Shri S.A Kolhatkar, learned advocate for the Applicant.

Shri K.B Bhise, learned Presenting Officer for the Respondents.

**CORAM : Shri Justice A.H Joshi (Chairman)**

**RESERVED ON : 13.12.2017**

**PRONOUNCED ON : 21.12.2017**



**ORDER**

1. Heard Shri S.A Kolhatkar, learned advocate for the Applicant and Shri K.B Bhise, learned Presenting Officer for the Respondents.
2. This Original Application is taken up for final hearing.
3. The applicant was suspended by order dated 5.11.2015, during pendency of criminal case in which applicant and other accused were indicted. It was a case arising out of Crime No. 594/2015 for offences under Section 394, 34 of IPC.
4. The admitted facts involved are as follows:-
  - (a) Investigation was conducted and charge sheet was filed and a Regular Criminal Case No. 18/2016 was commenced.
  - (b) After Trial applicant and other accused have been acquitted by judgment and order dated 18.2.2017.
  - (c) After acquittal applicant submitted representation claiming that suspension be revoked and he may be reinstated.
  - (d) Considering lack of action on the part of the Respondents, applicant has preferred present O.A.
  - (e). During the pendency of O.A, the State has preferred appeal against acquittal along with application for condonation of delay and the appeal is pending.
  - (f) The Competent Authority has initiated fresh preliminary enquiry. Report of the preliminary enquiry is received, which is adverse to the applicant.
  - (g) Competent Authority has decided to hold disciplinary proceedings against the applicant, for which charge sheet is issued.

(h) Applicant's claim for revocation of suspension was considered in two consecutive meetings by Competent Committee and a decision is taken not to revoke the suspension of the applicant.

5. This Original Application has been opposed.

6. The reason assigned for opposing the relief is the same as recorded in the minutes of the Committee, as reiterated in the affidavit in reply reads as follows:-

“5. With reference to para no. 6(d), I say and submit that the applicant is working in Police Department. He is aware about the legal provisions, rules and procedure. Despite this he has conducted himself in the most unprofessional and derogatory manner. As a Police Officer he is supposed to protect the life and property of the public, but Applicant has prima facie committed a serious criminal activity which is against the interest of public and society. His act has given wrong message to the Society and thus disgraced the police image.”

7. Now the limited question to be considered at this stage is as to whether there exist prima facie strong grounds for continuing the suspension of the applicant.

8. It is pertinent to note that the Competent Authority has woke up for disagreeing with the report of the preliminary enquiry after the present O.A was filed and heard after many adjournments.



9. The statement contained in the case diary and the observation in the judgment of the acquittal together admit an unrefutable inference that:-

During the process of stopping the vehicle and recovering cash, retaining it in Police Station, issuing memorandum to the Driver or occupant of the vehicle etc. had occurred, the applicant was all throughout in contact with his superiors from his cell phone and the said cell phone record was part and parcel of record before the Magistrate.

10. The preliminary enquiry now relied upon by the Competent Authority, too, is totally oblivious to this aspect of the matter.

11. In these premises the question which arises at this stage is as to how could the applicant alone be indicted as involved when his immediate superior were all throughout in contact and were involved along with him, during the entire episode.

12. In the aforesaid premises and on the ground as disclosed in fresh preliminary enquiry report, and on the face of acquittal, continuation of suspension is not seen to be justifiable.

13. On whatever has transpired reveals that there is no justification for continuance of suspension particularly in the background that though applicant was acquitted no steps were taken either to initiate enquiry or punctually prefer appeal against acquittal, which too was preferred during pendency of present O.A.

14. In peculiar facts of the case it would be hard to anticipate that the misconduct subject matter is bound to result in major penalty by way of removal or dismissal. Hence it will be wholly unjustified to continue with the suspension of the applicant.

15. Moreover, Government has already prescribed that whenever the suspension is to be revoked the delinquent employee can always be kept away from an executive post.

16. In the result, Original Application succeeds. Commissioner of Police, Pune is directed to reinstate the applicant and give him suitable posting within 15 days from the date of this order.

17. Parties are directed to bear own costs.



Sd/-

**(A.H Joshi, J.)**  
**Chairman**

**Place : Mumbai**

**Date : 21.12.2017**

**Dictation taken by : A.K. Nair.**