

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 803 OF 2016 (D.B.)**

Shri Vijay S/o Uddhavrao Khobragade,  
Aged about : 57 years, Occ. Assistant Police Sub-Inspector,  
R/o Ayodhya Nagar, Near Notke Workshop Plot No. 8, Hajare Layout,  
Wardha, District Buldhana, Wardha.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Secretary,  
Department of Home,  
Mantralaya, Mumbai-32.
- 2) Special Inspector General of Police,  
Nagpur Region, Nagpur.
- 3) Superintendent of Police,  
Wardha, District Wardha.

**Respondents**

---

**Shri D.M.Surjuse, the Id. Adv. for the applicant.**

**Shri V.A.Kulkarni, the Id. P.O. for the respondents.**

---

**Coram :- Hon'ble Shri J.D.Kulkarni, Vice Chairman (J) &  
Hon'ble Shri Shree Bhagwan, Member (A)**

---

**JUDGMENT**

**(Delivered on this 05<sup>th</sup> day of May, 2018)**

**ORDER****PER:-MEMBER (A)**

Heard Shri D.M.Surjuse, the learned counsel for the applicant and Shri V.A.Kulkarni, the learned P.O. for the respondents.

2. In this O.A., the table below, are the chronological events as supplied by the applicant.

<b><u>Dates</u></b>	<b><u>Chronological Events</u></b>
25.03.1983	Applicant was appointed as Police Constable and posted at Head Quarter Wardha, he has completed the probation period to the satisfaction of the respondents.
15.07.1984	Applicant was transferred to Police Station Wardha and thereafter transferred to Arvi.
15.12.1988	Applicant was again transferred to Police Station Sewagram.
25.04.2005	Applicant was again transferred to P.S. Pulgaon.
16.03.2012	Again applicant was transferred to Karanja the movement applicant transferred to Karanja immediately he has been transferred to Devli Police Station.

07.05.2015	To the utter surprise the applicant was sent on duty pass at police station Ashti when he was posted at Devli with a view to harass him at the hand of respondent no. 3.
19.05.2014 13.08.2014 28.07.2016	The applicant has made several representation to the Police Inspector Ashti as well as Police Inspector Wardha and Respondent no. 3, requested that his duty pass of P.S. Ashti may kindly be cancelled and he may kindly be posted to Police station Wardha or near about Wardha District for his personal reasons like:- (1) his elder daughter is continuing study in final year B.E., (2) his second daughter is studying in second year, (3) his son is in 12 <sup>th</sup> std., (4) he is having 85 yrs. old aged mother and (5) his wife is suffering from high Sugar patient and hence his request transfer may kindly be considered at Wardha or near place of Wardha.

<p>19.09.2016 &amp; 15.09.2016</p>	<p>To the utter surprise the respondent no. 3 passed the impugned order thereby retire the applicant compulsorily from Government service without following provisions of Maharashtra Civil Services (Pension) Rules as per Rule 10(4)(b). Not only another order of punishment of fine of Rs. 500/- imposed on the applicant by way of impugned orders with malafide intention of harrasement.</p>
<p>04.10.2016</p>	<p>Review application was filed before respondent no. 2 and without any notice and without considering his request of the applicant, the respondent no. 3 passed the impugned order of compulsory retirement, without following Government Resolution:- Conditions in C.R. eg.:- 1. Integrity. 2. Total service record/ last five years C.R. gradation alongwith G.R. dated 01/05/2017. The said order, dated 15/09/2016, the respondents does not seems to have followed</p>

	<p>these conditions as it appears on record. Neither any record was submitted nor any part of the record in the meeting dated 15/09/2016 on basis of which Superintendent of Police has issued the order dated 15/09/2016 was placed before it. Without considering entire service record of applicant, the impugned order is issued by way of punishment that too without affording any opportunity of submission or hearing on merit it is against natural Justice and hence same impugned order of respondents is liable to be struck down at the hand of this Hon'ble Tribunal.</p>
20.11.2016	<p>The respondent no. 2 rejected the review application and blindly maintained the order of respondent no. 3 without considering the material evidence on case record. The respondent no. 3 communicated the impugned order of respondent no. 2 on 24.11.2016.</p>
21.12.2016	<p>Hence the applicant constrained to approach before this Hon'ble Tribunal for appropriate</p>

	relief of reinstatement in government service since the applicant will be superannuating on 05.07.2018.
--	---

3. The Annual Confidential Reports of the applicant are as under:-

13.10.1983 (Satisfactory)	23.09.1986 (Major Punishment Nil, Minor Punishment-12)	25.10.1988 (Warned to show personal work)
24.01.1990 (Action shall be taken, Not fit)	31.12.1991 (Having no legal knowledge, he shall be guided properly)	25.09.1992 (Average, needs initiative, Minor-12.)
21.12.1993 (Average)	20.06.1994 (Average)	05.04.1996 (Average)
07.05.1997 (Average)	22.12.1998 (Satisfactory)	14.12.199 (Satisfactory)
25.12.2000 (Good)	28.11.2001 (Working well)	22.10.2002 (Satisfactory)
21.03.2003 (Average, told to improve work, {B})	23.09.2005 (Needs improvement)	2006-07 (Very Good, {A})
14.02.2008 (Very Good, {A})	19.02.2009 (B+)	02.03.2010 (B, Good)
2010 (B+)	2011 (B, Good)	2012-13 (B, Good)
2013-2014 (B-ve)	2015-16 (B-ve)	2016-17 (C)

4. This Tribunal has fixed the date of final hearing as 11/04/2018. Apart from arguments submitted by the Id. counsel for the applicant and the Id. P.O., this Tribunal examined following four documents as per policy of DoPT, New Delhi and Government of Maharashtra in such cases. These documents are placed on record as Exh. "X", X-1/3, X-2/3 and X-3/3. Apart from this, since the applicant was appointed on 13/01/1983 and was to superannuate on 20/09/2016 and order of compulsory retirement was passed on 15/09/2016 (d{A&6@l Qk628@eqi qI dkfu@2016) which was served to him on 20/09/2016 and he was to be treated as compulsorily retired from Government service from 20/09/2016, as per Exhibit "X", i.e.:-

DoPT guidelines ii (b):-Entries in the CR dossier relating to integrity should be taken into account by the Review Committee. Even if a particular remark in integrity has not been communicated to the officer, or if the remark is of a general nature, the Review Committee could take into account the remarks vide reviewing any proposal for premature retirement. Reports, if any, pertaining to the officer may also be placed before the committee.

5. Nowhere in the C.R. dossier submitted by Id. P.O. from 13/10/1983 to 20/06/2017 it is reported/mentioned that his integrity is doubtful. So these aspects are in favour of the applicant. As per Exhibit-X-1/3 and X-2/3, para no. 1 for promotion of Government servant in last 5 yrs., Annual Confidential Reports should be examined by a Committee and it should be B+ for promotion. These C.R. dossiers are submitted by Id. P.O. on records. As per the records, the C.R. of the year

2014-2015 is not available. Since non availability of C.R. is not fault of applicant and in such cases it is considered as B. Now, if C.R. is graded for last five years i.e. 2015-2016 is B-, 2014-2015 is B, 2013-2014 is C, 2012-2013 is B, 2011-2012 is B and 2010-2011 is B+, therefore, the average will be B (A+ = 5, A=4, B+ = 4, B=2 & C=1) i.e.  $2+2+1+2+2+4=13/6=2.10$ .

6. Now, as per Exh.X-3/3, para 7 ([A](ii), the Government of Maharashtra has issued a G.R. dated 01/03/2017, which is as under:-

i j r q i n k S u r t P ; k f o p k j { A s = k r h y e k x k l o x h z v f / A d k j h } i n k S u r t l k B h x k s u h ;  
 v g o k y k p s f o f g r f u d " A i w A d j h r u l Y ; k l ] f o p k j k r ? ; k o ; k P ; k x k s u h ; v g o k y k a S h  
**d s G , d k o " A P ; k x k s u h ; v g o k y k p h i r o k j h , d L r j m p k o w ¼ E g . A t s ^ c + \* v l y**  
 r j ^ v \* l e t u ½ R ; k p h i k = r k r i k l . ; k r ; k o h -

It is shown at Exh.-X-3/3, it is para 7([A](ii) gives special concession to weaker sections. As per the Government of Maharashtra, G.R. dated 01/03/2017, para 7([A](ii), if ones G.R. is graded to B+, then he is eligible for promotion. Therefore, this Government servant is fit for promotion, because his integrity is not proved to be doubtful. So he cannot be compulsorily retired.

7. The Division Bench of the Bombay High Court has interpreted and explained the scope and application of rule 10(4)(a)(i) of



the Pension Rules, 1982 in *Dashrath-Vs-State of Maharashtra reported in 1996 (1) Mh.L.J.699* and observed as under:-

“Further the Division Bench also stated important principles to be noted in the matter of compulsory retirement in para 13 of the judgment and they are-

1. Compulsory retirement is not a punishment and does not involve stigma.
2. It is a sole prerogative of the Government.
3. Speaking order is not required.
4. Uncommunicated adverse remarks can be taken into consideration.
5. Principles of natural justice do not apply.
6. The order must be in public interest.
7. The Review Committee shall have to consider the entire report of the service of the concerned employee before taking any decision in the matter attaching more importance to record and performance being of the later year.”

This Judgment is also followed in **Chandidas-Vs.-State of Maharashtra, 2001 (3) Bom C R 122-DB**

Both the impugned orders does not show that the full record of applicant was considered and that the order was passed in the public interest.

8. In view of the facts, the Superintendent of Police, Wardha's letter dated 15/09/2016 is quashed and set aside. Hence, we pass the following order:-

**ORDER**

The O.A. is allowed with no order as to costs.

**(Shree Bhagwan)**  
**Member (A)**

**(J.D.Kulkarni)**  
**Vice Chairman (J)**

**Dated :- 05/05/2018**

aps