

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO. 824 OF 2012

DISTRICT : SOLAPUR

1 Shri Dhanraj P. Chavan,)
Assistant Commissioner of Police,)
Solapur City, office of Commissioner of Police,)
Solapur, District Solapur, and)
R/at. Vidyanagar Cooperative Housing Society) **..APPLICANT**
No.1, North Sadar Bazar, Solapur, District
Solapur.

VERSUS

1 Government of Maharashtra,)
Through Additional Chief Secretary,)
Home Department, Mantralaya,) **...RESPONDENT**
Mumbai 400 032)
2 Director General of Police,)
Maharashtra State,)
Office at Old Council Hall, Colaba, Mumbai.)

Shri G.L.Edke – Advocate for the Applicant.

Shri D.B.Khaire – Chief Presenting Officer for the Respondent.

CORAM : Dr. Justice S. Radhakrishnan, Chairman
Shri Rajiv Agarwal, Vice-Chairman.

DATE : 26th February, 2013

PER : Dr. Justice S. Radhakrishnan, Chairman

ORDER

1. Heard Shri G.L.Edke, Learned Counsel for the applicant and Shri D.B.Khaire, learned Chief Presenting Officer for the respondents.

2. The above Original Application has been filed by Assistant Commissioner of Police who is basically seeking the relief of promotion to the post of Superintendent of Police/Deputy Commissioner of Police.
3. Shri Edke, learned Counsel appearing on behalf of the applicant pointed out that in disciplinary proceeding initiated against the applicant, the respondent no.2 had imposed a minor punishment on 12th October, 2007, whereby the applicant was imposed the punishment of stoppage of one increment for a period of one year. The learned Counsel for the applicant pointed out that aggrieved thereby the applicant had preferred an appeal against the said order of punishment before the Appellate Authority. The learned Counsel for the applicant also made it clear that there was no stay granted by the Appellate Authority. Shri Edke, contended for the reasons best known to the respondents, the respondents have still not implemented the said minor punishment order.
4. Shri Edke, learned Counsel for the applicant pointed out that in the meanwhile the respondents had constituted the Departmental Promotion Committee, which recommended the names of various officers for promotion to the post of Superintendent of Police/Deputy Commissioner of Police.
5. Shri Edke, learned Counsel for the applicant pointed out that the applicant's name was not found in the said select list for the year 2010-2011. The applicant was subsequently informed to respondent no.2, by a communication dated

21st November 2011 that the applicant's name was not included in the select list for promotion as the applicant has to still undergo minor punishment imposed upon him by an order dated 12th October, 2007.

6. Shri Edke, learned Counsel for the applicant pointed out that though the applicant had preferred an appeal against the minor punishment order, there was no stay granted by the Appellate Authority, the respondents could have very well implemented the order of punishment in the year 2007 itself. The respondents are now seeking to contend that as the said order of punishment was not implemented, the applicant's case cannot be considered for promotion though he was found fit for promotion. Shri Edke further contended that the applicant has been made to suffer unnecessarily for no fault of the applicant. Shri Edke contended that if the respondents had implemented the said punishment in the year 2007 itself, by now there would have been no issue of not complying with the punishment order. He also pointed out that the Appellate Authority had not granted any stay, hence the respondents could have very well implemented the punishment order.

7. Shri Edke further contended that the applicant is retiring now on 31st August, 2013, and in view thereof the respondent no.2 by a communication on 3rd December 2012 pointed out that the applicant is retiring within a year, hence the said punishment order could not be implemented.

↪

8. Shri D.B.Khaire, learned Chief Presenting Officer appearing on behalf of the respondents fairly stated that the applicant was found fit to be promoted to the post of Superintendent of Police/Deputy Commissioner of Police. However, the applicant's name was not included solely on the ground that the applicant had not still undergone minor punishment.

9. After hearing both the learned Counsel for the applicant and learned Presenting Officer for the respondents, it is absolutely clear that the applicant is made to suffer for no fault of his. It is also an admitted position that the Appellate Authority had not granted any stay in the Appellate proceeding, the respondents could have very well implemented the punishment order immediately after the order was issued in the year 2007, whereas in view of the default on part of the respondents in not implementing the said punishment order, now the applicant has been made to suffer. In the above, the applicant has made to suffer solely because of respondents carelessness in not implementing the punishment order, at the right time.

10. Under the aforesaid facts and circumstances, we pass the following order :

- (A) The applicant who is personally present before the Court undertakes to withdraw the appeal filed before the Appellate Authority with regard to aforesaid minor punishment order dated 12th October, 2007, within a week from today.



- (B) The respondent no.2 shall calculate the exact amount payable by the applicant, as if he had undergone the said punishment immediately after the said minor punishment was imposed on 12th October, 2007.
- (C) The applicant shall pay the entire amount as indicated by respondent no.2 towards the aforesaid minor punishment within a week thereafter.
- (D) Thereupon the respondents to include the name of the applicant in the select list of Superintendent of Police/Deputy Commissioner of Police and also issue an appropriate promotion order specially having regard to the fact that the applicant is retiring on 31st August, 2013.

11. Original Application stands disposed of accordingly.

Sd/-
(Rajiv Agarwal)
Vice-Chairman
26.02.2013

Sd/-
(Dr. S. Radhakrishnan, J.)
Chairman
26.02.2013