

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 84/2019 (S.B.)

Bhaurao S/o Shankarrao Gaidhane,
R/o Plot No.10, near NIT Garden,
Mane Ward, Wardha Ring Road,
Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department, Mantralaya,
Mumbai.
- 2) Deputy Commissioner of Police,
(Headquarter), Nagpur City, Nagpur.

Respondents.

Shri S.P. Palshikar, Advocate for the applicant.

Shri H.K. Pande, P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan,
Vice-Chairman.**

Date of Reserving for Judgment : 16th December, 2019.

Date of Pronouncement of Judgment : 3rd January, 2020.

JUDGMENT

(Delivered on this 3rd day of January,2020)

Heard Shri S.P. Palshikar, Id. Counsel for the applicant
and Shri H.K. Pande, learned P.O. for the respondents.

2. Initially the applicant has entered into Government service
in the year 1982 and was posted at Nagpur and he has worked at

various placed in that capacity. It is case of the respondents that the present applicant was an accused in the matter of anti corruption which was registered some time in 1995 precisely on 5/4/1995. It is also their case that he has been held responsible for accepting bribe and thereafter w.e.f. 6/4/1995 he was suspended. Thereafter, the suspension was revoked on 29/10/2000 and he was reinstated in service which he joined immediately. The learned Special Judge, Nagpur has decided the Sessions Trial No.17/1995 and had convicted the appellant / accused of offence punishable under Section 7 of the Prevention of Corruption Act, 1988 (copy not annexed in O.A.).

3. In view of the conviction stated above Competent Authority was pleased to pass an order dated 5/1/2005 and has retired the applicant compulsorily. It is a matter of record that the applicant has appealed a Judgment of the Special Judge by which he was convicted by filing Criminal Appeal No.667/2004 (A-3,P-19) before the Hon'ble High Court at Nagpur and the same was admitted and the sentence of imprisonment was suspended by virtue of the said order of Hon'ble High Court i.e. regarding suspending imprisonment, applicant was reinstated in 2005. From 2000 till the Judgment of the learned Special Court the applicant has actually worked and has received the salary for that period i.e. from 2000 to 2004.

4. Thereafter the Hon'ble High Court was pleased to decide the Criminal Appeal preferred by the applicant and was pleased to set aside the Judgment of previous court and other by which the applicant was convicted. Thereafter the State has decided not to appeal order of the Hon'ble High Court before the Hon'ble Supreme Court of India therefore the Judgment of the Hon'ble High Court dated 8/12/2017 has attained the finality.

5. The respondent no.2 was pleased to pass an order thereby informed the applicant that his earlier order of compulsory retirement dated 5/1/2005 has been set aside. Further, it has been informed that if the applicant could have been in service, he could have retired on attaining the age of superannuation on 29/2/2016 therefore the respondent no.2 has further informed vide letter dated 24/5/2018 (A-4,P-31) that period from 6/1/2005 till 29/2/2016 was treated for all purposes as duty period and further informed that the applicant would be entitled to get back the benefit prior to 3 years of his retirement / superannuation.

6. It has been also informed that the suspension period from 6/4/1995 to 29/10/2000 was treated as duty period for all the purposes.

7. The respondents in their reply para-3, page no.34 have mentioned provisions of the Maharashtra Civil Services (Joining time,

Foreign Services and Payment during Suspension, Dismissal and Removal) Rules,1981 in Rule 70 (4) (page no.46) which is reproduced below –

“ Provided that any payment under this sub-rule to a Government servant (other than a Government servant who is governed by the provisions of the Payment of Wages Act, 1936 (4 of 1936) shall be restricted to a period of three years immediately preceding the date on which orders for reinstatement of such Government servant are passed by the appellate authority or reviewing authority, or immediately preceding the date of retirement on superannuation of such Government Servant, as the case may be”

8. In view of these provisions of law relief clause 8 (1) cannot be granted.

9. I have perused the impugned order dated 24/5/2018 (A-4, P-31&32). On page no.32 since the applicant superannuated on 29/2/2016 prior to three years of this date, his services have been treated as on duty period for all purposes as per Rule 70 of the Maharashtra Civil Services (Joining time, Foreign Services and Payment during Suspension, Dismissal and Removal) Rules,1981. Hence, there is no substance in relief clause 8 (2) also.

10. In view of discussions in forgoing paras, I do not find any reason to interfere with the impugned order dated 24/5/2018 (A-4,P-31&32). Hence, the following order –

ORDER

The O.A. stands dismissed. No order as to costs.

Dated :- 03/01/2020.

dnk....

(Shree Bhagwan)
Vice-Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice-Chairman.

Judgment signed on : 03/01/2020.

and pronounced on

Uploaded on : 03/01/2020.