

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 856/2019 (D.B.)

Gajanan S/o Tukaram Dhandar,
Aged 46 years, Occ. Service,
R/o Shrushti Apartment,
Prashant Nagar, Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department, Mantralaya, Mumbai.
- 2) Director General of Police,
Having its office, near Regal Theater,
Kulaba, Mumbai.
- 3) Superintendent of Police,
Amravati (Rural),
District Amravati.

Respondents.

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

Shri P.N. Warjurkar, P.O. for respondents.

**Coram :- Shri Shree Bhagwan,
Vice-Chairman and
Shri Anand Karanjkar, Member (J).**

Dated :- 20/07/2020.

JUDGMENT

Per : Anand Karanjkar : Member (J).

Heard Shri S.P. Palshikar, learned counsel for the applicants and Shri P.N. Warjurkar, learned P.O. for the respondents.

2. The applicant is challenging the impugned order Annexure-A-4 dated 4th October, 2019 by which the applicant was reverted to the post of Assistant Police Inspector. The facts in brief are as under –

3. The applicant entered the Government service as Police Constable on 12/01/1993. The applicant appeared in the MPSC examination in year 2005, then he was selected as Police Sub Inspector (PSI) and in the year 2011 the applicant was promoted as Assistant Police Inspector (API).

4. Thereafter the applicant was promoted as Police Inspector vide order dated 28/7/2017 which is at Annex-A-3. It is contention of the applicant that Crime No.259/2017 punishable under Sections 7, 13 (1) (d) and 13 (2) under the Prevention of Corruption Act was registered against the applicant on 3/11/2017. The applicant was arrested, consequently, he was suspended. The department did not revoke the suspension after expiry of 90 days, therefore, the applicant filed O.A. No. 250/2019 and the suspension came to be revoked. It is contention of the applicant that without giving opportunity of hearing the order Anx. A-4 was passed by the respondent no.2 reverting the applicant. It is submission of the applicant that without following the due procedure laid down in the law, the applicant is reverted and therefore the impugned order is required to be quashed.

5. The respondent nos.2&3 have filed their reply and have justified their order on the ground that though the applicant was promoted, but he was not relieved and therefore the applicant remained on the same post. It is submitted by the respondents that as the applicant was trapped in the Anti Corruption case, he was arrested, therefore, the respondent no.2 rightly reverted the applicant.

6. We have heard the arguments of the learned counsel on behalf of the applicant and learned P.O. It is undisputed that when the applicant was promoted, there was no adverse material against the applicant. The Crime was registered on 3rd November,2017 at that time the applicant was already promoted as Police Inspector and second aspect is that without giving show cause notice to the applicant or opportunity of hearing to the applicant, the respondent no.2 straight way passed the impugned order Annex-A-4, dated 04/10/2019 and reverted the applicant.

7. It is settled legal position that the Government servant cannot be punished without following the due procedure laid down in the law. Under Section 25 of the Maharashtra Police Act, power is conferred on the Government and the specified officer to award punishment to the Members of the Police Force. The Section 25 (2) of the Act has conferred such power of the Director General and the Inspector General including the Additional Director General, the

Special Inspector General etc. to award punishment to the officers such as Police Inspector and officers sub-ordinate to the Police Inspector. The material provision is under Section 26 of the Maharashtra Police Act. The Section 26 says that except the cases covered in the second proviso to clause 2 of Article 311 of the Constitution of India, no order of punishment under sub section 1 of the section 25 shall be passed, unless the procedure prescribed by law is followed. The order of reversion is covered under sub section 1 of the section 25 of the Maharashtra Police Act, therefore it is punishment as contemplated by section 26 of the Maharashtra Police Act. In the present matter, it seems that without conducting any disciplinary inquiry or without giving opportunity of hearing to the applicant, the impugned order is passed and the applicant is reverted. No doubt, the applicant was trapped in Anti Corruption case, crime is registered against him, but the fact remains that when this happened at that time the applicant was already promoted.

8. In view of this, we are compelled to say that there is no legal justification to sustain the impugned order passed by the respondent no.2 as this order is in contravention of section 26 of the Maharashtra Police Act. In the result, we accept the contention that the impugned order of reversion is contrary to law. Hence, the following order –

ORDER

The O.A. stands allowed. The impugned order Annex-A-4 is quashed and set aside. It is cleared that the respondents are at liberty to take appropriate decision following the provisions under the Maharashtra Police Act. No order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 20/07/2020.

*dnk.

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 V.C. and Member (J).

Judgment signed on : 23/07/2020

Uploaded on : 23/07/2020

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