

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 287/2018 (D.B.)**

Parasram S/o Tulsidas Nebhanani,
Aged about 36 years,
Occ. Advocate, Resident of Gurunanak Ward,
Hinganghat, Dist. Wardha (M.S.).

Applicant.

Versus

- 1) The State of Maharashtra,
through Collector, Wardha,
Tah. & Dist. Wardha.
- 2) The Assistant Director and Public Prosecutor,
Wardha, Administrative Building, 2nd Floor,
Civil Lines, Wardha,
District Wardha.
- 3) The Director of Prosecution,
Directorate of Prosecution, Maharashtra State,
Mumbai, Barracks no. 6, Free Press Journal Road,
Near Manora Aamdar Niwas,
Nariman Point, Mumbai-400 021.
- 4) The State of Maharashtra,
Through its Secretary,
Ministry of Home Department,
Mantralaya, Mumbai-440 032.

Respondents.

Shri G.M.Shitut, Id. Advocate for the applicant.

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

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

Date of Reserving for Judgment : 18th Nov., 2021.

Date of Pronouncement of Judgment : 30th Nov., 2021.

Per:-Member (J)

(Delivered on this 30th day of Nov., 2021)

Heard Shri G.M.Shitut, learned counsel for the applicant and Shri H.K.Pande, learned P.O. for the respondents.

2. In this O.A., the order dated 24.11.2017 (A-14) passed by Respondent no. 1 and consequential order dated 04.12.2017 (A-15) passed by respondent no. 2 have been impugned:-

CHRONOLOGY:-

- (i) By order dated 17.09.2010 (A-2) respondent no. 2 appointed the applicant and 11 others under Section 25 (3), CRPC as special APP.
- (ii) The applicant was posted at Samudrapur, District Wardha vide order dated 31.12.2013 (A-3).
- (iii) J.M.F.C. (Court No. 2) Samudrapur made a complaint to Respondent no. 2 against the applicant. The complaint referred to conduct of the applicant while conducting two criminal cases pending in the Court.
- (iv) Accused no. 1 in the aforesaid cases alleged by filing pursis dated 09.08.2017 (A-6) that the applicant had demanded an amount of Rs. 1000/- from her which was later on returned by him.

(v) The applicant came to know that by letter dated 14.08.2017 J.M.F.C. (Court No. 2) Samudrapur had intimated respondent no. 2 about allegations against him.

(vi) After said complaint was forwarded to respondent no. 2 against the applicant, respondent no. 2 withdrew the work allotted to him.

(vii) On 22.08.2017, the applicant made a detailed representation (A-13) to respondent no. 3 contending that he was being victimized. By letter dated 24.11.2017 respondent no. 1 intimated the applicant that his name was deleted from the panel of Special APPs since his appointment could be cancelled without notice on finding that his work was not satisfactory, or in the event of receipt of any complaint against him.

(viii) By letter dated 04.12.2017 respondent no. 2 informed the applicant that his name had been removed from the panel list of Special APPs and his appointment had been cancelled.

(ix) Based on order dated 24.11.2017 respondent no. 1 passed order dated 04.12.2017 cancelling appointment of the applicant as Special APP.

3. REPLY OF THE RESPONDENTS:-

(i) Earlier also certain complaints were received against the applicant that he had claimed bills without actually working before the court.

(ii) Respondent no. 2 when she was working at Samudrapur had noticed that conduct of the applicant was not satisfactory.

(iii) The applicant was included in the panel of Special APPs. His services were temporary and the same could be terminated at any time without notice.

(iv) Accused no. 1 in two criminal cases which were being tried by J.M.F.C. (court no. 2) Samudrapur had made a complaint against the applicant that the applicant had demanded an amount of Rs. 1000/- from her, she had parted with the amount but later on it was returned to her by him.

(v) Complaint by J.M.F.C. (Court No. 2) Samudrapur was considered by respondent no. 1 and thereafter respondent no. 1 passed the order dated 24.11.2017 removing name of the applicant from the panel of Special APPs.

4. SUBMISSIONS OF THE APPLICANT:-

(i) The order passed by respondent no. 2 cancelling appointment of the applicant as Special APP cannot be sustained because no opportunity of hearing was given to him.

(ii) Roznama of the proceeding before the J.M.F.C. was sufficient to conclude that the applicant was falsely implicated.

(iii) Representation made by the applicant to respondent no. 3 ought to have been allowed.

5. The respondents resisted the application on the grounds set out in their reply.

6. CONCLUSION:-

The impugned orders make it clear that while passing the same contents of the complaint received against the applicant were taken into account. This amounts to casting aspersions and attaching stigma. Admittedly, no inquiry was held against the applicant. Before passing the impugned orders no opportunity of hearing was afforded to the applicant.

The appointment order of the applicant expressly states that the appointment was purely temporary, it could be terminated at any time without giving notice and unsatisfactory work or receipt of any complaint against the appointee could lead to cancellation/ termination of appointment without notice.

In the instant case terms of appointment order and tenor of impugned orders will have to be considered together.

Having regard to express terms of appointment question of directing reappointment of the applicant would not arise.

At the same time element of stigma implicit in the impugned orders will have to be removed.

In the facts and circumstances of the case following order shall meet the ends of justice. Hence, the order:-

ORDER

The application is allowed in the following terms:-

1. The impugned orders shall not attach any stigma to the applicant.
2. The impugned orders shall be deemed to have been passed by exercising the right to terminate purely temporary services of the applicant without giving notice.
3. No order as to costs.

(Shri M.A.Lovekar)
Member (J)

(Shri Shree Bhagwan)
Vice Chairman.

Dated :- 30/11/2021.

*aps.

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

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble Vice Chairman & Member (J).

Judgment signed on : 30/11/2021.
and pronounced on

Uploaded on : 01/12/2021.