

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 70/2016 (S.B.)

Dilip Bhaurao Dhawade,
Aged about 38 years, Occ. Service,
r/o Hanuman Nagar, Takiya Ward,
Bhandara.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department having its office at
Mantralaya, Mumbai-400 032.
- 2) Special Inspector General of Police,
Nagpur Range, Nagpur.
- 3) Superintendent of Police,
Bhandara.

Respondents.

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

Shri S.A. Sainis, P.O. for the respondents.

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

Date of Reserving for Judgment : 9th December, 2019.

Date of Pronouncement of Judgment : 13th December, 2019.

JUDGMENT

(Delivered on this 13th day of December,2019)

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. As submitted by the learned counsel for the applicant, the applicant entered into the Government service as Police Constable in the year 1998 and was posted at Gadchiroli. After that the applicant got at various places in the same capacity. In the year 2010 the applicant was promoted as Police Naik and was posted in the Bhandara District and at present he is working in the same capacity at Tumsar.

3. When the applicant was working as Police Naik in the Police Station, Tumsar District Bhandara an offence was registered against him vide Offence no.3024/2011 at Police Station, Mohadi for the offences punishable under Section 7, 13 (1) (d) r/w Section 13 (2) of the Prevention of the Corruption Act,1988. He was also arrested. The applicant was suspended vide order dated 16/09/2011 (A-3,P-18). The case was tried in the Court of Special Judge (ACB), Bhandara as Special (ACB) Case no.04/2012 (A-4,P-19). The Judgment was passed on 26/4/2014. In para no.9 (P-30) following observations have been made –

“ (9) To conclude, I am of the opinion that the prosecution is not sufficient to bring home the guilt of the accused. Hence, the accused is entitled to the benefit of reasonable doubt. Hence, I answer the points accordingly and proceed to pass the following order –

ORDER

(1) Accused Dilip Baurao Dhawade is acquitted of the offences punishable under Sections 7 (1) (d) and 13 (1) (d) r/w Section 13 (2) of the Prevention of Corruption Act.

(2) His bail bonds shall be in force for the further period of six months.

(3) The muddemal property, currency notes of Rs.3,000/- be returned to the office of Anti Corruption Bureau Bhandara for disposal according to law, and rest of the muddemal property, being worthless, be destroyed, after the period of appeal is over.”

4. After this order, the applicant was reinstated in the service vide letter dated 9/9/2014 (A-5,P-31) by the Superintendent of Police, Bhandara. The applicant submitted the representation to the respondent no.3 i.e. the S.P., Bhandara vide his letter dated 20/11/2014 (A-6,P-32). The respondent no.3 had issued a show cause notice vide letter dated 20/6/2015 (A-7,P-33) and the applicant has replied to that show cause notice vide his letter dated 27/6/2015 (A-8,P-35).

5. After receipt of reply by the applicant to the show cause notice issued by the respondent no.3 i.e. the S.P., Bhandara (A-7, P-33). The respondent no.3 did not proceed or initiated any departmental enquiry against the applicant. Without departmental enquiry punishment could not have been awarded to the applicant after his acquittal in the said case by Hon'ble Court as mentioned in para-3 above.

6. However, the respondent no.3 i.e. the S.P., Bhandara vide his order dated 30/7/2015 (A-9,P-37&38) treated his suspension period from 16/9/2011 to 9/9/2014 (by typing mistake 16/9/2011 is written 19/9/2011) as suspension period. The applicant has preferred appeal against the respondent no.3 order to respondent no.2 i.e. the Spl. IG Police, Nagpur vide his letter dated 12/8/2015 (A-1,P-39 to 42). The respondent no.2 i.e. the Spl. IG Police, Nagpur Range Nagpur vide impugned order dated 27/11/2015 (A-1,P-16) has conferred the order passed by the S.P., Bhandara dated 30/7/2015 (A-9,P-37&38). I have gone through the order passed by the Spl. Judge (ACB), Bhandara. It has been made clear in various paras like paras-6, 8 and 9 that the prosecution had failed to prove the guilt, hence applicant was acquitted as per the order 24/6/2014 as mentioned in para-3 above. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) As per relief clause para 8 (i) order dated 30/7/2015 passed by the respondent no.3 and order dated 27/11/2015 passed by the respondent no.2 are quashed and set aside.

- (iii) The applicant's suspension period from 16/9/2011 to 9/9/2014 is treated as duty period for all purposes of his service including salary and pension.
- (iv) The respondents are directed to pay full salary for the period from 16/9/2011 to 9/9/2014 after deducting the amount earlier paid as subsistence allowance.
- (v) The above order be complied within two months from the date of this order.
- (vi) No order as to costs.

Dated :- 13/12/2019.

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 : 13/12/2019.

and pronounced on

Uploaded on : 13/12/2019.
