**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**

**ORIGINAL APPLICATION NO.1205 OF 2019**

**DISTRICT : MUMBAI**

Shri Swapnil Ravikant Thale. )
Age : 35 Yrs, Working as Police )
Sub-Inspector, attached to Dindoshi )
Police Station, Malad (E), )
Mumbai – 400 067 and residing at Flat )
No.808, B-Wing, Thakur House, )
Kandivali (E), Mumbai – 400 101. )**...Applicant**

**Versus**

The Additional Director General of Police )
[Administration], having Office in the )
Compound of Old Council Hall, )
Shahid Bhagatsingh Marg, )
Mumbai – 400 039. )**...Respondent**

**Mr. Arvind V. Bandiwadekar, Advocate for Applicant.**
**Mrs. K.S. Gaikwad, Presenting Officer for Respondent.**

**CORAM : SHRI A.P. KURHEKAR, MEMBER-J**

**DATE : 11.01.2021**

**JUDGMENT**

1. The Applicant has invoked the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunal Act, 1985 challenging the order dated 19.07.2019 whereby Respondent – Additional Director General of

Police treated the period of suspension of the Applicant from 07.05.2013 to 17.06.2018 as such under Rule 72(5)(7) of Maharashtra Civil Services (Joining Time, Foreign Service, and Payments during Suspension, Dismissal and Removal) Rules, 1981 (Hereinafter referred as 'Rules of 1981' for brevity).

2. Admitted facts necessary to be borne in mind for the decision of Original Application are as under:-

(a) While the Applicant was serving as Police Sub Inspector at Aurangabad, he came to be suspended on 30.05.2013 with effect from 07.05.2013 in view of registration of crime No.35/2013 of the offences under Section 34, 504, 506 read with Section 30 of Indian Arms Act and Crime No.36/2013 for the offences under Section 376, 323, 504, 34 of IPC on 08.05.2017 on the allegation that Applicant had committed rape on complainant Kum. Archana Phartale on the promise of marriage, and thereafter, threatened to kill the complainant and her mother by use of service revolver.

(b) The Applicant was prosecuted for the offences registered against him vide Crime No.36/13 in session case No.134/13 and came to be acquitted by learned Special Judge, Raigad on 30.12.2017.

(c) In another Crime No.35/13, he was prosecuted in regular Criminal Case No.8/2014 in the court of Special Judicial Magistrate, Raigad wherein by judgment dated 20.01.2018, he was acquitted for the offences under Section 341, 504, 506 of IPC but convicted for the offences under Section 30 of Indian Arms Act read but instead of sentence was released on probation for one year on execution of bond of good conduct.

(d) In view of aforesaid decisions, the Applicant was reinstated in service by order dated 13.06.2018.

(e) The Respondents then issued notice dated 13.06.2018 to the Applicant calling his explanation as to why punishment of reduction in lower scale (original scale) for three years should not be imposed upon him in view of conviction in Case No.08/2014.

(f) The Applicant had submitted his reply on 30.06.2018 stating that he had already preferred an appeal against the order of conviction and being it subjudice requested to drop the proceedings.

(g) The Respondents however by order dated 13.07.2018 being not satisfied with explanation, taking sympathetic view of the matter imposed punishment of withholding of increments for two years by order dated 13.07.2018.

(h) Being aggrieved by it, the Applicant had preferred appeal before the Government wherein by order dated 27.05.2019, the order of withholding increments was modified by "strict warning".

(i) The Respondents by order dated 19.07.2021, issued show cause notice to the Applicant as to why his period of suspension from 07.05.2013 to 17.06.2018 should not be treated as such under Rule 72 of 'Rules of 1981'.

(j) The Applicant had submitted his reply on 14.08.2019 contending that his period of suspension which was more than five years should be regularized.

(k) However, Respondents by impugned order dated 19.07.2019 treated the period of suspension from 07.05.2013 to 17.06.2018 as such exercising Rule 72 (5)(7) of 'Rules of 1981'.

3. It is on the above background, the Applicant has challenged the order dated 19.07.2019 by filing present Original Application.

4. Shri A.V. Bandiwadekar, learned Advocate for the Applicant sought to assail the legality of impugned order mainly on the following grounds:-

(i) The Applicant was suspended in view of registration of Crime No.35/2013 and 36/2013 but later on merit, he was acquitted in Crime No.136/2013 (Sessions Case No.134/2013) and in Crime No.35/2013 (Criminal Case No.08/2014, though he was convicted for the offence under Section 30 of Indian Arms Act since he was released on probation of one year instead of sentencing to any punishment, there was no justification to treat long period of suspension i.e. from 07.05.2013 to 17.06.2018 as such.

(ii) The Applicant was suspended by Special Inspector General of Police (VIP Security) instead of suspension by Inspector General of Police, and therefore, the suspension order dated 30.05.2013 itself is illegal and consequently, the period of suspension from 07.05.2013 to 17.07.2018 should not have been treated as such.

(iii) In departmental proceedings, though initially the punishment of withholding increments for two years was passed but in appeal it was modified to strict warning only, and therefore, it cannot be said that the suspension of the Applicant was wholly justified.

5. Per contra, Mrs. K.S. Gaikwad, learned Presenting Officer supported the impugned order contending that even if the Applicant was released on probation of bond in the matter of conviction under Section 30 of Indian Arms Act, it does not wipe out conviction, and therefore, it cannot be said that the suspension was wholly unjustified.

6. As regard competency of Special Inspector General of Police (VIP Security) who passed suspension order dated 30.05.2013, she submits that the Applicant had not challenged the suspension order dated 30.05.2013 at any point of time, and therefore, now the question of

legality of suspension order cannot be questioned in this proceeding wherein challenge is restricted to the treatment to suspension period.

7. Indisputably, the Applicant was suspended in view of registration of two crimes i.e. Crime No.35/2013 for the offence under Sections 341, 504, 506 of IPC read with Section 30 of Indian Arms Act and Crime No.36/2013 for the offence under Sections 376, 323, 504, 506 read with Section 34 of IPC on the allegation that the Applicant had committed sexual intercourse with the complainant Kum. Archana Fartale on the promise of marriage, and thereafter, refused to perform marriage with her and when complainant and her mother questioned the Applicant, he abused, assaulted and threatened to kill them with his service revolver. Needless to mention that the suspension is not a punishment and it is always ordered to facilitate fair investigation, collection of evidence, having regard to the misconduct attributed to a Government servant. As such, the order of suspension is required to be passed after taking into consideration the gravity of misconduct sought to enquire or investigate, keeping in mind public interest and impact of delinquent's continuation in office against whom serious criminal charges are levelled.

8. In the present case, the Applicant came to be suspended in view of registration of serious offences against him. The Applicant being Police Personnel having regard to the seriousness of the charges and public interest, the authority thought it appropriate to suspend the Applicant in view of registration of crime against him.

9. In so far as the Judgment of Sessions Case No.134/2013 for the offences under Sections 376 and 420 of IPC is concerned, the accused was acquitted by giving benefit of doubt. Indeed, defence of Applicant seems to be of consensual sexual intercourse with prosecutrix who was major and quite educated lady. The perusal of Judgment reveals that in the span of 2/3 years, the Applicant and prosecutrix indulged in physical intercourse at various hotels at Aurangabad and Pune. The prosecutrix's case was that the Applicant committed sexual intercourse with her under

the promise of marriage. However, later it was revealed to the prosecutrix that the Applicant in the meantime got married with other lady, and thereafter, refused to marry with her. In cross-examination in Sessions trial, she admits that there was love affairs in between her and Applicant. Thus, the defence seems to have consensual sexual intercourse not attracting ingredients of Section 376 and 420 of IPC and acquitted the accused. As such, even if accused came to be acquitted from the charges, it was because of non-fulfilling the ingredients of the offences in law. It appears that the Applicant though working on the post of ASI has indulged in extra-marital relations with the prosecutrix, which is unbecoming to a public servant. Suffice to say, it is not a case of clean or honourable acquittal fully exonerating the Applicant from criminal charges.

10. In Crime No.35/2013 (Criminal Case No.08/2014), the learned Special Magistrate, Raigad acquitted him for the offence under Section 341, 504, 506 but convicted him for the offence under Section 30 of Indian Arms Act but instead of sentencing to any punishment, the Applicant was released on probation for one year on execution of bond of good conduct. The perusal of Judgment in Criminal Case No.08.2014 reveals that, according to Police Manual, the Police Personnel should not carry weapon while they are not on duty and it should be deposited with the concerned authority. In this behalf, the learned Magistrate referred Rule 47 along with Rule 33 of Police Manual. He was found on leave at the time of incident and carried service revolver to Village Poynad in Raigad District and there he allegedly threatened the complainant and her mother with service revolver. In so far as offence under Sections 341, 504, 506 of IPC is concerned, the learned Magistrate found evidence not enough to sustain the charge and acquitted him from the said charges. Thus, there is no denying that the Applicant was convicted for the offence under Section 30 of Indian Arms Act but benefit of probation of good conduct was given to him.

11. The submission advanced by the learned Advocate for the Applicant that in view of release of Applicant on probation of good conduct, there was no stigma of conviction and sentence, and therefore, the initial suspension itself was not justified is totally fallacious and misconceived.

12. Section 12 of Probation of Offenders Act is as under :-

> "**12. Removal of disqualification attaching to conviction**.- Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of Section 3 or Section 4 shall not suffer dis- qualification, if any, attaching to a conviction of an offence under such law:
>
> Provided that nothing in this section shall apply to a person who, after his release under Sec. 4, is subsequently sentenced for the original offence."

13. The learned P.O. rightly referred to decision of Hon'ble Supreme Court in ***AIR 1990 SC 987 (Union of India Vs. Bakshi Ram)*** wherein the issue was whether Section 12 of Probation of Offenders Act obliterates the stigma of conviction. The Hon'ble Supreme Court held as under :-

> "***8.*** *It will be clear from these provisions that the release of the offender on probation does not obliterate the stigma of conviction. Dealing with the scope of Sections 3, 4 and 9 of the Probation of Offenders Act, Fazal Ali, J., in The Divisional Personnel Officer, Southern Railway and Anr. etc. v. T.R. Challappan etc., [1975] 2 SLR 587 at 596 speaking for the Court observed:*
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> *These provisions would clearly show that an order of re- lease on probation comes into existence only after the accused is found guilty and is convicted of the offence. Thus the conviction of the accused or the finding of the Court that he is guilty cannot be washed out at all because that is the sine qua non for the order or release on probation of the offender. The order of release on probation is merely in substitution of the sentence to be imposed by the Court. This has been made permissible by the Statute with a humanist point of view in order to reform youthful offenders and to prevent them from becoming hardened criminals. The provisions of Section 9(3) of the Act extracted above would clearly show that the control of the offender is retained by the criminal court and where it is satisfied that the conditions of the bond have been broken by the offender who has been released on probation, the Court can sentence the offender for the original offence. This clearly shows that the factum of guilt on the criminal charge is not swept away merely by passing the order releasing the offender on*

*probation. Under sections 3, 4 or 6 of the Act, the stigma continues and the finding of the misconduct resulting in conviction must be treated to be a conclusive proof. In these circumstances, therefore, we are unable to accept the argument of the respondents that the order of the Magistrate releasing the offender on probation obliterates the stigma of conviction.*

*In criminal trial the conviction is one thing and sentence is another. The departmental punishment for misconduct is yet a third one. The Court while invoking the provisions of Section 3 or 4 of the Act does not deal with the conviction; it only deals with the sentence which the offender has to undergo. Instead of sentencing the offender, the Court releases him on probation of good conduct. The conviction however, remains untouched and the stigma of conviction is not obliterated. In the departmental proceedings the delinquent could be dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; (See Article 311(2)(b) of the Constitution and Tulsiram Patel case: [1985] Supp. 2 SCR 131)."*

14. In this behalf, reference can be also made to a decision of Hon'ble High Court of Delhi in ***RAC No.121/2001 (Ram Narayan Sharma Vs. Canara Bank) decided on 5th July, 2020***. In that case, the Bank employee was convicted for the offence under Section 323 of PIC, but he was released of probation of good conduct on execution of bond under Section 4 of Probation of Offenders Act. After conviction, he was dismissed from service which was modified to removal of service. In that context, when matter went to Hon'ble Apex Court, it has been held that the Respondent Bank was within its power to dismiss the Appellant in view of his conviction for the offence under Section 323 of IPC and the order of modifying dismissal into removal of service was maintained.

15. The Hon'ble High Court of Delhi in Para 61 held as under :-

"***61.*** *A person who is found guilty of an offence and is dealt with under the provisions of Probation of Offenders Act is not subject to any disqualification or disability flowing from conviction of an offence under any enactment. The Section, however, does not preclude departmental proceedings. In the departmental proceedings, delinquent could be dismissed or removed or reduced in rank on the ground of conduct which led to his conviction on a criminal charge. Section 12 removes a disqualification attached to a conviction, neither liability to be departmentally punished for misconduct is a disqualification, nor it attaches to the conviction. This Section does not wash away the misconduct of the Government servant nor it is intended to exonerate a Government servant of his liability to departmental punishment. This*

*provision does not afford immunity against disciplinary proceedings for the original misconduct. What forms basis of the punishment is the misconduct and not the conviction. In a criminal trial, conviction for an offence is one thing and sentence is another. Therefore, release of an offender on probation under Sections 3 or 4 of the Act does not wash away his act of misconduct leading to the offence or his conviction thereon as per law."*

16. As such, it is no more *res-integra* that release of Applicant on probation of good conduct does not obliterate the conviction and does not preclude the Department from taking action for misconduct leading to the offence or to his conviction thereon as per law. Section 12 of Probations of Offenders Act is not intended to exonerate the person from departmental punishment.

17. True, the Applicant has challenged the Judgment of conviction in R.A.No.8/2014 and appeal is subjudice. However, the position as on today is that there is finding of conviction of the Applicant though he is released on execution of bond of good conduct for one year. In other words, the finding of conviction still subsists. It is well settled that the conviction for an offence is one thing and sentence is totally another. Suffice to say, only because Applicant has been released on probation of good conduct, the stigma of conviction is not wiped out or obliterated and consequently, the Applicant cannot escape from its consequences of law.

18. In addition to conviction in Criminal Case, in departmental proceeding which was initiated after the conviction of Applicant initially by order dated 13.07.2018, the punishment of withholding next increment with cumulative effect was imposed. However, later in appeal, it was modified to strict warning synonymous to reprimand. The order passed by appellate authority dated 27.05.2019 is at Page No.84 of P.B. The appellate authority has observed that in view of subsisting conviction against the Applicant, he was liable for punishment in departmental proceeding, but by taking sympathetic approach, the punishment was reduced to strict warning/reprimand which has attained finality.

19. Thus, the position ultimately transpires is that the conviction against the Applicant in Criminal Case No.08.2014 is in force and secondly, there is also punishment of strict warning/reprimand in departmental proceedings which necessarily shows that suspension was not wholly unjust, rather it was justified and reinforced. In view of decision of Hon'ble Supreme Court in ***Bakshi Ram's*** case (cited supra), even if the delinquent is released on probation of bond, the conviction remains untouched and such a delinquent can be subjected to departmental proceeding on the ground of conduct which led to his conviction in Criminal Case. This being the ultimate situation, the Applicant's contention that the suspension was not wholly justified and he is entitled to full pay and allowances is totally fallacious and misconceived.

20. Rule 72 of 'Rules of 1981' gives discretion to the competent authority as to in what manner, the period of suspension to be regularized. As per Rule 72(3) of 'Rules of 1981', the competent authority has to find out whether the suspension was wholly unjustified while passing the order of regularization of suspension period after reinstatement of the delinquent in Government service. Rule 72(3) reads as under :-

> "**72(3)** Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the Government servant shall, subject to the provisions of sub-rule (8), be paid the full pay and allowances to which he would have been entitled, had he not been suspended:
>
> Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government, it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the presentation, if any, submitted by him, direct, for reasons to be recorded in writing that the Government servant shall be paid for the period of such delay only such amount (not being the whole) of such pay and allowances as it may determine."

21. As such, while passing the order under Rule 72(3), the competent authority has to exercise discretion and to form opinion as to whether the suspension was wholly unjustified. In other words, a negative test has to be applied for holding a person entitled to all benefits of the period of suspension. In the present case, before issuance of impugned order, show cause notice was given to the Applicant and on receipt of it, the impugned order has been passed. Having regard to the punishment of reprimand/strict warning given to the Applicant and conviction in Criminal Case No.08/2014 and Judgment in Session Case No.134/2013, the competent authority seems to have formed an opinion that the suspension of the Applicant was not wholly unjustified, and therefore, treated the period of suspension from 07.05.2013 to 17.05.2018 as such for all purposes invoking Rule 72(5)(7) of 'Rules of 1981'. I, therefore, see no illegality in the impugned order.

22. At this juncture, it would not be out of place to refer the decision of Hon'ble Supreme Court in ***(1997) 3 SCC 636 (Krishnakant Bibhavnekar Vs. State of Maharashtra)*** wherein the Appellant was charged for the offence under Section 409 of IPC and was kept under suspension. After his acquittal, he was reinstated in service but pay and allowances of suspension period was not granted. The O.A. filed by the Applicant was dismissed. The Hon'ble Supreme Court considered the scope of Rule 72 of 'Rules of 1981' and held that the acquittal does not automatically entitle the delinquent to claim back-wages and other consequential benefits of suspension period on his reinstatement. Para No.4 of Judgment is material, which is as under :-

> **"4.** . *Mr. Ranjit Kumar, learned counsel for the appellant, contends that under Rule 72(3) of the Maharashtra Civil Services (Joining Time, Foreign Services, and Payment during Suspension, Dismissal and Removal) Rules, 1991 (for short "the Rules"), the Rules cannot be applied to the appellant nor would the respondents be justified in treating the period of suspension of appellant, as the period of suspension, as not being warranted under the Rules. We find no force in the contention. It is true that when a Government servant is acquitted of offences, he would be entitled to reinstatement. But the question is: whether he would be entitled to all consequential benefits including the pensionary benefits treating the*

*suspension period as duty period, as contended by Shri Ranjit Kumar ? The object of sanction of law behind prosecution is to put an end to crime against the society and law thereby intends to restore social order and stability. The purpose of prosecution of a public servant is to maintain discipline in service, integrity, honesty and truthful conduct in performance of public duty or for modulation of his conduct to further the efficiency in public service. The Constitution has given full faith and credit to public acts. Conduct of a public servant has to be an open book; corrupt would be known to everyone. The reputation would gain notoriety. Though legal evidence may be insufficient to bring home the guilt beyond doubt or foolproof. The act of reinstatement sends ripples among the people in the office/locality and sows wrong signals for degeneration of morality, integrity and rightful conduct and efficient performance of public duty. The constitutional animation of public faith and credit given to public acts, would be undermined. Every act or the conduct of a public servant should be to effectuate the public purpose and constitutional objective. Public servant renders himself accountable to the public. The very cause for suspension of the petitioner and taking punitive action against him was his conduct that led to the prosecution of him for the offences under the Indian Penal Code. If the conduct alleged is the foundation for prosecution, though it may end in acquittal on appreciation or lack of sufficient evidence, the question emerges: whether the Government servant prosecuted for commission of defalcation of public funds and fabrication of the records, though culminated into acquittal, is entitled to be re-instated with consequential benefit ? In our considered view, this grant of consequential benefits with all backwages etc. cannot be as a matter of course. We think that it would be deleterious to the maintenance of the discipline if a person suspended on valid considerations is given full back wages as a matter of course, on his acquittal, as a matter of course, on his acquittal. Two courses are open to the disciplinary authority, viz., it may enquire into misconduct unless, the selfsame conduct was subject of charge and on trial the acquittal was recorded on a positive finding that the accused did not commit the offence at all; but acquittal is not on benefit of doubt given. Appropriate action may be taken thereon. Even otherwise, the authority may, on reinstatement after following the principle of natural justice, pass appropriate order including treating suspension period as period not on duty and on payment of subsistence allowance etc. Rules 72(3), 72(5) and 72(7) of the Rules give discretion to the disciplinary authority. Rule 72 also applies, as the action was taken after the acquittal by which date rule was in force. Therefore, when the suspension period was treated to be a suspension pending the trial and even after acquittal, he was reinstated into service, he would not be entitled to the consequential benefits. As a consequence, he would not be entitled to the benefits of nine increments as stated in para 6 of the additional affidavit. He is also not entitled to be treated as on duty from the date of suspension till the date of the acquittal for purpose of computation of pensionary benefits etc. The appellant is also not entitled to any other consequential benefits as enumerated in paras 5 and 6 of the additional affidavit."*

23. Reliance placed by Shri Bandiwadekar on the decision of Hon'ble Bombay High Court on **1999(3) Mh.L.J. 351 (S.P. Naik Vs. Board of**

**Trustees, Mormugao Port Trust** is misplaced. In that matter, minor penalty of withholding two increments was imposed under Mormugao Port employees (classification, Control and Appeal) Rules, 1964 and regulations thereunder. The Hon'ble High Court, in fact situation, held that in view of 'Rules of 1964' in case of minor penalty of withholding of two increments, the order of treating suspension period as such is not sustainable and granted full pay and allowances for the period of suspension. In the first place, it was a matter of penalty in D.E. and not arising from any conviction on criminal charge. Secondly, the perusal of Judgment reveals that according to Mormugao Port Employees Regulations 1964, the penalty of withholding an increment is a minor penalty and if imposed, the period of suspension has to be treated as duty period. Thus, it appears that the Regulation itself provides that minor penalty has to be ignored while deciding the nature of suspension period on reinstatement of the delinquent. Whereas, in the present case, it is not so, and therefore, this authority is of little assistance to the Applicant.

24. In so far as competency of Special Inspector General (VIP Security) for passing the suspension order dated 30.05.2013 is concerned, the said ground now cannot be raised by the Applicant in this proceeding. Admittedly, he had not challenged the suspension order dated 30.05.2013 at any point of time. After suspension, he was prosecuted in two Criminal Cases and after decision therein, he was reinstated in service by order dated 13.06.2018. During this period, he never challenged the order of suspension on the ground of competency or on any other ground. As such, it is a case of *fait accompli* and now he cannot raise the issue of competency of Special Inspector General of Police who passed the order of suspension.

25. The submission advanced by the learned Advocate for the Applicant that the suspension order was nullity for want of competency, and therefore, the ground of competency can be agitated in collateral

proceedings is devoid of merit. He referred to the decision of Hon'ble Supreme Court in ***(2001) 6 SCC 534 (Dhurandar Prasad Singh Vs. Jai Prakash University & Ors.)*** wherein it has been held "It is a fundamental principle well-established that a decree passed by a Court without jurisdiction is a nullity, & that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings". Whereas, in the present case, there is no question of execution of suspension order which in fact had attained finality and *fait accompli*. Therefore, this decision is of no help to the Applicant.

26. Indeed, it is clarified by the Respondents that it is Special Inspector General of Police who issued appointment order of the Applicant on 11.11.2009 (Page No.24 of P.B.). The Applicant was suspended by the authority in the rank of Special Inspector General of Police. This being the position, the ground of competency holds no water.

27. True, in suspension order dated 30.05.2013, the Applicant was shown suspended invoking Rule 3(1)(a-2) of Bombay Police (Punishment and Appeal) Rules, 1956 which indeed applied where suspension is by way of punishment. In the present case, the suspension was not by way of punishment but it was on account of registration of criminal offences against the Applicant. The Respondent fairly concede that inadvertently reference of Rule 3(1)(a-2) of Bombay Police Act made and it was *bonafide* mistaken as clarified in Para No.7 of reply. Needless to mention that quoting of wrong provision or Rule does not render the order illegal if in substance it is sustainable in law.

28. The reliance placed by learned Advocate for the Applicant on the decision rendered by this Tribunal in **O.A.No.162/2016 (Mohammad Arif Mohammad Ibrahim Sayyed Vs. State of Maharashtra) decided on 21.09.2016** is misplaced. In that case, the Applicant was suspended

in contemplation of D.E. in which charge-sheet was served after 10 years long period. In D.E, he was subjected to punishment of stoppage of one increment without cumulative effect. Therefore, in fact situation, particularly in view of long delay of more than a decade for service of charge-sheet and punishment of a minor penalty, he was held entitled for pay and allowances for the period of suspension. Whereas, in the present case, the Applicant was suspended in view of registration of serious offences against him and there is conviction in a Criminal Case against him and punishment in departmental proceeding as well.

29. The totality of aforesaid discussion leads me to sum-up that the challenge to the impugned order of treating period of suspension as such under Rule 72 of 'Rules of 1981' is devoid of merit. I see no legal infirmity in the impugned order and O.A. deserves to be dismissed. Hence, the following order.

**O R D E R**

The Original Application stands dismissed with no order as to costs.

Sd/-

**(A.P. KURHEKAR)**
**Member-J**

Mumbai
Date : 11.01.2021
Dictation taken by :
S.K. Wamanse.
D:\SANJAY WAMANSE\JUDGMENTS\2021\January, 2021\O.A.1205.19.w.1.2021.Suspension Period.doc

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