

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.712/2022
WITH
MISCELLANEOUS APPLICATION NO.29/2023**

DISTRICT:- NANDURBAR

Shri. Bapu S/o Shivaji Pathade,
Age: 47 years, Occu: Service as Jail Guard,
District Prison, Class-1, Nandurbar,
R/o. Room No. 3, A-Wing,
Prison Employee Vasahat,
Sakri Road, Nandurbar.

...APPLICANT

V E R S U S

1) The State of Maharashtra,
Through: The Secretary,
Home Department, Mantralaya,
Madam Kama Road, Mumbai-32.

2) The Additional Director General of Police &
Inspector General of Prison & Sudhar Seva,
Maharashtra State, Old Central Building,
2nd Floor, Pune-411001.

3) The Dy. Inspector General of Prison,
Central Division, Aurangabad-431008.

4) The Superintendent,
District Prison, Dhule.

...RESPONDENTS

APPEARANCE :Shri Kakasaheb B. Jadhav, Counsel
for Applicant.

:Shri S.K.Shirse, Presenting Officer for
the respondents.

**CORAM : HON'BLE SHRI JUSTICE P.R.BORA,
VICE CHAIRMAN**

Decided on : 28-03-2023.

ORAL ORDER :

1. Heard Shri Kakasaheb B. Jadhav, learned Counsel for the applicant and Shri S.K.Shirse, learned Presenting Officer for the respondent authorities.
2. When these matters were heard for some time, it is revealed that the applicant has approached this Tribunal though period of 6 months had not expired after filing of the departmental appeal by him against the punishment imposed upon him in the departmental enquiry by the disciplinary authority. However, notices have been issued in the present matter. Respondents have not yet filed their affidavits in reply to the O.A.
3. Now, in the M.A. the applicant has come out with a prayer to allow him to incorporate the events which occurred during the pendency of the O.A. As has been submitted by the learned Counsel, in the meanwhile, Appellate Authority has decided the appeal and has rejected the same. The applicant is intending to incorporate the said facts and the prayer in that context that the order passed by the Appellate Authority shall be quashed and set aside.

4. In view of the fact that the applicant approached this Tribunal before expiry of the period of 6 months after filing appeal by him which was an alternate efficacious remedy available to him, O.A. itself cannot be entertained. After such opinion has been expressed by the Tribunal, learned Counsel has now sought leave on instructions from the applicant to withdraw the present applications with liberty to file fresh application challenging the earlier order imposing punishment upon him passed by the Disciplinary Authority as well as the subsequent order passed by the Appellate Authority in appeal. In view of the fact that the respondents have not yet filed their affidavits in reply in the present matter, I see no impediment in allowing the request so made. Hence, the following order:

ORDER

- [i] Applicant is permitted to withdraw the present O.A. as well as M.A. with liberty to file fresh O.A. for the reliefs as are claimed in the O.A. and M.A.
- [ii] O.A. as well as M.A. both are disposed of in the aforesaid terms.
- [iii] No order as to costs.

VICE CHAIRMAN

Place : Aurangabad

Date : 28.03.2023.