

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 136 OF 2016

DISTRICT: - AURANGABAD.

Shamsundar S/o. Manikrao Choudhari,

Age : - 50 years, Occu: Service (as
Police Inspector), R/o : Plot No. 80/A,
Bharat Residency, Near Saint Xavier
School, N-1, A Sector, CIDCO,
Aurangabad.

.. APPLICANT.

V E R S U S

- 1. The State of Maharashtra,**
Through its Principal Secretary,
Home Department, M.S.,
Mantralaya, Mumbai-32.
- 2. The Director General of Police,**
M.S., Mumbai.
- 2-A. The Commissioner of Police,**
Aurangabad.
- 3. The President,**
Divisional Caste Scrutiny
Committee, Aurangabad.

.. RESPONDENTS

APPEARANCE : Shri Avinash S. Deshmukh –
learned Advocate for the applicant.

: Shri V.R. Bhumkar – learned
Presenting Officer for the
respondents.

CORAM : **HON'BLE SHRI B.P. PATIL,**
MEMBER (JUDICIAL)

DATE : **20TH MARCH, 2018.**

ORDER

1. The applicant has approached this Tribunal seeking declaration that he is entitled to get the benefit of Section 47 of “the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995” [for short the ‘the Act of 1995’] and to extend the benefit under the said Act of 1995 to him including financial benefits i.e. payment of arrears of salary from 01.03.2014 onwards, by filing the present Original Application.

2. The applicant joined the service in Home Department under the Government of Maharashtra as a directly recruited Police Sub-Inspector (PSI) in the year 1991. Thereafter, he was promoted to the cadre of Assistant Police Inspectors (APIs) in due course of time. Thereafter, he was promoted as Police Inspector in the year 2008 and since then he worked on that post till the tragedy occurred to him.

3. In the year 2013 he was posted at the Manikpur Police Station under the Superintendent of Police, Thane

(Rural). On 6.7.2013 at about 2.35 a.m. he suffered from attack of paralysis due to which right side of his body was fully paralyzed and he was unable to move his right hand and right leg. He suffered from paralysis attack while on duty. He was immediately taken to the Golden Park Hospital in Vasai (West), where he was given initial treatment. Thereafter, he was shifted to the Leelavati Hospital in Mumbai. He was admitted there till 23.07.2013. He incurred huge expenditure of Rs. 3,70,788/- for his medical treatment. He submitted bill for reimbursement of medical expenses, but it had not been paid to him within the reasonable time. Therefore, he approached this Tribunal by filing O.A. No. 472/2015.

4. On the backdrop of the facts and circumstances i.e. suffering attack of paralysis and undergoing prolonged treatment at the Leelavati Hospital, he was constrained to make a request for his transfer to Aurangabad, where he has his own house. But the respondent No. 2 transferred him in the office of Superintendent of Police, Nashik (Rural) in the month of February, 2014. Therefore, he

made another request to transfer him at Aurangabad. Ultimately he was transferred to Aurangabad on 25.06.2014 in the office of respondent No. 3. Accordingly, he reported to respondent No. 3 on 4.8.2014 along with the medical certificate countersigned by the Civil Surgeon, Aurangabad. On 9.9.2014, respondent No. 3 had issued a communication to the Medical Board, Aurangabad requesting for carrying out of applicant's medical examination to ascertain his fitness to join duty.

5. Accordingly, the applicant appeared before the medical board at Aurangabad. On 26.9.2014 the Medical Board, Aurangabad issued a report giving Temporary Fitness Certificate to the applicant for 3 months. Accordingly, the applicant was directed to join the duty in the office of respondent No. 3 by communication dated 1.12.2014. In pursuance of that the applicant joined his duty. The applicant was not able to discharge the duty since right side of his body was completely paralyzed. As per the direction of the Medical Board, respondent No. 2 ought to have referred him for medical examination after

three months, but that was not done. Therefore, on 5.5.2015 the applicant submitted a request application to the respondent No. 3 to send him before the Medical Board for medical examination. In pursuance of the said application he was referred to Medical Board on 11-12/05/2015. On examining him the Medical Board issued a certificate on 18.05.2015 certifying that he was unfit for discharging duty as Police Inspector.

6. On receiving the said certificate of unfitness the respondent No. 3 forwarded it to the respondent No. 2 by its communication dated 15.06.2015 for further appropriate action in view of the provisions of Section 47 of the Act of 1995. It was incumbent on the part of the respondent No. 2 to take decision on the communication dated 15.06.2015 sent by respondent No. 3 in view of the Act of 1995, but respondent No. 2 had not taken any decision on it. Therefore, the applicant has filed his application dated 22.06.2015 to the respondent No. 2 with a request to grant the benefit under Section 47 of the Act of 1995. The respondent No. 2 then issued a

communication dated 7.8.2015 to the respondent No. 3 conveying that the applicant be asked to remain present at Mumbai on 11.8.2015 at 11.00 a.m. for personal interview. The said communication was served on the applicant by respondent No. 3 vide letter dated 7.8.2015 informing the applicant to remain present before the respondent No. 2. He had presented himself in the office of respondent No. 2 along with his wife and reiterated his request to extend the benefit under Section 47 of the Act of 1995 through his wife. He has also referred the decision of this Tribunal, as well as, decision of the Hon'ble Apex Court in that regard. In spite of that no action was taken by the respondent No. 2 in that regard. On the contrary, on 19.11.2015, respondent No. 2 issued a show cause notice to him for dismissal from service on the ground that in a departmental enquiry conducted against him in respect of incident occurred in the year 2011 he was found guilty by the Enquiry Officer. The said notice has been issued with a view to circumvent his request for extension of benefit under Section 47 of the Act of 1995. The applicant submitted his reply to the said

notice on 16.12.2015 mentioning the precarious position and circumstances in which he was placed. In spite of that nothing has happened till filing of the present Original Application. Therefore, he approached this Tribunal by filing the present Original Application and prayed to issue a direction to the respondents to extend the benefit under Section 47 of the Act of 1995 to him and to release the financial benefits including the salary as there was inaction on the part of the respondents.

7. Respondent Nos. 1 & 2 have filed common affidavit in reply and resisted the contentions of the applicant. They have not denied the contention of the applicant regarding his entry in the Police Department, promotion as API and then PI. It is contended by them that by the order dated 25.6.2014 the applicant has been transferred from Thane Rural to Divisional Caste Certificate Verification Committee No. 1, Aurangabad and accordingly the applicant joined on the said post on 4.8.2014. They have admitted that the applicant has suffered from paralysis attack while on duty and he was hospitalized

and his right side of the body has been fully paralyzed and he is unable to move his right hand and right leg. The respondents have admitted that the respondent No. 3 referred the applicant to the Medical Board, Aurangabad for medical examination and Medical Board issued certificate regarding unfitness on his last examination. They have also admitted that the applicant has filed the representation dated 22.6.2015 for extension of the benefit under Section 47 of the Act of 1995. The respondents admitted that the applicant was heard through his wife and son by the then Additional Director General of Police (Establishment) on 11.8.2015.

8. It is contended by the respondents that the Inspector General of Police, Kokan Range, Navi Mumbai by his order dated 15.2.2014 had ordered a joint departmental enquiry against the present applicant and P.S.I. Suhas Rahul Waghchoure, for the defaults committed by them, when they were serving at Ganeshpuri Police Station, Thane Rural District on 15.10.2011. The enquiry was completed and its final report was sent to the respondents on

21.7.2015 by the Enquiry Officer. As per the final report the charges leveled against the present applicant and P.S.I. Suhas Ruhul Waghchoure were proved. Therefore, the show cause notice has been issued to the applicant on 19.11.2015 for dismissal from the service. The applicant filed reply to the notice. After considering the reply, the respondent No. 2 i.e. D.G.P. M.S., Mumbai, has decided to cancel the show cause notice issued against the applicant and ordered to conduct de novo enquiry from the stage of serving the charge sheet against the applicant by passing the order dated 22.2.2016. It is the contention of the respondents that the disciplinary enquiry has been initiated against the applicant for the default committed by him before he suffered from the paralysis attack. Therefore, the same is maintainable. The respondents would scrutinize the case of the applicant for extending the benefit under Section 47 of the Act of 1995 till the decision in the Departmental Enquiry comes and appropriate order will be passed and the same be communicated to the applicant. They have admitted that the applicant is incapacitated for performing duties of

Police Inspector. It is contended by the respondents that the present application is not maintainable and, therefore, they prayed to reject the same.

9. By filing the additional affidavit in reply, the respondent No. 2 has contended that during the pendency of the present Original Application, the respondent No. 2 by communication dated 24.8.2017 authorized the Commissioner of Police, Aurangabad to take appropriate steps to extend the benefit under Section 47 of the Act of 1995 to the applicant. The applicant was posted at Police Control Room at Aurangabad. He joined the said post on 24.4.2017. The benefit as per Section 47 of the Act of 1995 has been given to him, but the applicant for the reasons best known to him remained absent from the duty without giving any leave note since 24.4.2017. Therefore, his salary has not been drawn. Therefore, the respondent No. 2 has prayed to reject the present Original Application.

10. Added respondent No. 2-A has filed affidavit in reply contending that he is adopting the reply filed by the respondent No. 2 and relying on the same he has

contended that the applicant has joined on his establishment on 24.4.2017 and the benefit under Section 47 of the Act of 1995 has been extended to him, but the applicant remained absent after 24.4.2017 and, therefore, no salary has been released to him.

11. Respondent No. 3 has filed affidavit in reply and contended that the applicant came to be transferred to his establishment from Thane District by the order dated 25th June, 2014 issued by the Special Inspector General of Police, M.S., Kulaba, Mumbai. The applicant was on medical leave. He has been relieved when he was on leave. Thereafter, the applicant has filed medical certificate and joined service in the office of respondent No. 3. After joining the service, respondent No. 3 issued a letter to the Medical Board, Aurangabad on 9.9.2014 to examine the applicant. On the basis of that letter, the Medical Board has issued medical certificate certifying that the applicant is fit for performing the duties for 3 months and accordingly, the applicant joined the office. Again the applicant was referred to the Medical Board by

the respondent No. 3 by the letter dated 5.5.2015 and requested to submit the medical certificate of the applicant. On the basis of letter dated 5.5.2015 the Medical Board has examined the applicant and issued certificate stating that the applicant is unfit to discharge his duties as Police Inspector. On the basis of the medicate certificate the respondent No. 3 vide his letter dated 15.6.2015 forwarded the report to the respondent No. 2. It is the contention of the respondents that the post of Police Inspector is under the jurisdiction of Home Department and the office of respondent No. 3 has no right or authority to transfer, promote or to retire the person. The office of respondent No.3 has no concern with the service of the applicant. Therefore, it has prayed to reject the Original Application.

12. I have heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents. I have perused the application, affidavit, affidavit in reply filed by

the respondents. I have also perused the documents placed on record by both the sides.

13. Admittedly, the applicant joined the service in Home Department under the Government of Maharashtra as a directly recruited Police Sub-Inspector in the year 1991. He was promoted to the cadre of Assistant Police Inspectors on 16.7.2003 and then he was promoted as Police Inspector on 15.8.2009. Admittedly, in the year 2013 he was attached to the Manikpur Police Station under the Superintendent of Police, Thane (Rural). There is no dispute about the fact that on 6.7.2013 at about 2.35 a.m. he suffered an attack of paralysis and his right side of body was fully paralyzed and he was unable to move his right hand and right leg. Admittedly, he took treatment in the Golden Park Hospital in Vasai (West) and then he was shifted to the Leelavati Hospital in Mumbai from 6.7.2013 to 23.7.2013. Admittedly, on the ground of his illness the applicant made request to the respondent No. 2 to transfer him at Aurangabad, where he has his own house. But the respondent No. 2 transferred him in

the office of Superintendent of Police, Nashik (Rural) in the month of February, 2014. The applicant thereafter made another request to transfer him at Aurangabad. His request was considered by the respondent No. 2 and he was transferred and posted in the office of respondent No. 3 on 25.06.2014. Admittedly, the applicant joined the office of respondent No. 3 on 4.8.2014 along with the medical certificate countersigned by the Civil Surgeon, Aurangabad. He was referred to the Medical Examination by the respondent No. 3 on 9.9.2014. The Medical Board has examined the applicant accordingly and submitted report giving temporary fitness certificate for 3 months. Thereafter, again the applicant was referred to the Medical Board, Aurangabad by respondent No. 3 on 11/12.5.2015. On examining him the Medical Board issued a certificate on 18.05.2015 certifying that he was unfit for discharging duty as Police Inspector. The said certificate was forwarded to respondent No. 3 to the respondent No. 2 by its communication dated 15.06.2015 for further appropriate action. Admittedly, no action was taken by the respondent No. 2 in that regard till filing of the

Original Application. Admittedly, during the pendency of the O.A. respondent No. 2 was directed the respondent No. 2-A, where the applicant has been transferred during the pendency of the OA and pass appropriate order extending benefit of the Section 47 of the Act of 1995. Admittedly, respondent No. 2-A passed the order extending the benefit under Section 47 of the Act of 1995 to the applicant. Admittedly, the applicant joined the office of respondent No. 2-A on his transfer during the pendency of the application, but thereafter he remained absent because of his illness. Admittedly, his salary and arrears of salary has been paid to the applicant till February, 2015. Since March, 2015 the salary has not been paid to the applicant.

14. Learned Advocate for the applicant has submitted that during the pendency of the O.A., respondent No. 2-A has issued the order extending the benefit under the provisions of Section 47 of the Act of 1995 to the applicant. He has further submitted that this fact has been admitted by respondent Nos. 2 and 2-A in their

affidavit in reply also. He has argued that the relief claimed by the applicant in prayer clause 12-(A) & (B) have been satisfied and, therefore, the applicant is not pressing the said prayer clauses. He has submitted that the applicant is pressing only prayer clause 12-(C).

15. He has argued that though the benefit under Section 47 of the Act of 1995 has been extended to the applicant, respondents have not disbursed the salary and other financial benefits to the applicant since March, 2015. He has submitted that the respondents are compelling him to join the office though the applicant is in a vegetative state of health. He has submitted that the applicant is unable to move his right hand and right leg because he has been suffered from paralysis attack. He is not in a position to walk, sit and talk properly and, therefore, he cannot be compelled to attend the office. He has submitted that in view of the provisions under Section 47 of the Act of 1995, the applicant who is not suitable for the post on P.I. because of the disability acquired him, ought to have been shifted to some other post in the same pay scale and

service benefits and if it is not possible to adjust him to any other post then he should be kept on supernumerary post until suitable post is available or he attains the age of superannuation, whichever is earlier, but the respondents have only passed the order extending the benefit under Section 47 of the Act of 1995, but no financial benefits were given to the applicant and his salary has not been paid to him since March, 2015, which is against the provisions of Section 47 of the Act of 1995. He has submitted that the said issued has been dealt with by the Hon'ble Apex Court in case of **KUNAL SINGH VS. UNION OF INDIA AND ANOTHER 2003 SCC (L & S) 482**, wherein it has been observed in paragraph Nos. 9, 10, 11 and 12 as under :-

9. The respondent nos. 2 & 3 have filed affidavit in reply and controverted the averments and contentions made by the original applicant and opposed the present original application vehemently. The learned PO for the respondents submitted that, when the applicant was detailed for bandobast duty at Chandbibi Mahal at Ahmednagar, he

suffered a paralytic attack, and therefore, immediately he was hospitalized for medical treatment. He also required prolonged medical treatment in the hospital for the said ailment, and hence, he was referred to Medical Board at Pune to ascertain as to whether the original applicant was capable for performing police duties in future and on examining him the Medical Board at Pune, declared the original applicant "UNFIT" to perform lawful police duties. Accordingly, learned PO submitted that, on receiving the opinion from the Medical Board, Pune, the res. no. 3 retired the original applicant on invalid pension vide order dtd. 17.8.2011 as per the provision laid down U/s 80 of the M. C. S. (Pension) Rules, 1982 and his name was stuck up from the payroll of Dist. Police Force from 18.8.2011. The learned PO submitted that, being aggrieved by the said decision the applicant has challenged the same in the original application no. 284 of 2012 praying to reinstate him in Government service (Police Department). During the pendency of the said original application, the Superintendent of Police, Ahmednagar passed an order on 29.5.2013 and reinstated the original applicant back in service in view

of sec. 47 of the Disabilities Act, 1995 (Annex. D). Hence, said original application was disposed of on 13.6.2013 by this Tribunal and respondent authorities were directed to take the decision regarding period of absence of the applicant from the date of retirement on invalid pension till date of reinstatement i. e. from 18.8.2011 to 2.6.2013 within the period of three months and liberty was also granted to the original applicant to file fresh proceeding, if he is not satisfied with the order passed by the authorities.

10. Accordingly, learned PO submitted that, in compliance of the said directions the res. no. 3 reinstated the original applicant in service on the basic pay of Rs. 11,610/- and Grade Pay of Rs. 2400/- and further directed that, period of his absence from duty would be decided in due course of time.

11. The learned PO further submitted that, thereafter the original applicant preferred the application on 6.9.2013 to res. no. 3 and requested to treat his period of absence from duty from 18.8.2011 to 3.6.2013 as duty period and he be paid full pay and

allowances for the said period. Hence, as regards regularizing the period of absence from duty of the original applicant i. e. from 18.8.2011 to 3.6.2013 the res. no. 3 issued show cause notice dtd. 4.9.2013 to the original applicant calling upon him to submit his reply as to why he shall not be paid fifty percent of pay and allowances as per the provisions of sec. 70, 71 & 72 of M. C. S. (Joining Time, Foreign Service and Payment During Suspension, Dismissal and Removal) Rules, 1981 and in case his reply is not received within five days time limit. In response to the said show cause notice, the original applicant filed reply on 6.9.2013 and requested the res. no. 3 to grant him full pay and allowances for the aforesaid absence period from 18.8.2011 to 3.6.2013. Accordingly, learned PO submitted that, absence from duty period of the original applicant was decided as per the provisions laid down u/s 71 (2) of the M. C. S. (Joining Time, Foreign Service) Rules, 1981 vide order dtd. 11.11.2013, which reads thus :-

“पो.ह. १३, पापन्ना मोहन गवळी यांचा दिनांक १८.८.२०११ ते ३.६.२०१३ पर्यंतचा सेवाबाह्य कालावधी साठी रग्णता सेवा निवृत्त केले नसते तर जे पुर्ण वेतन त्यांना मिळाले असते त्याच्या

५० टक्के वेतन व त्यावर अनुज्ञेय असलेले भत्ते, महाराष्ट्र नागरी सेवा (पद ग्रहण अवधी स्वीचेत्तर सेवा आणि निलंबन, बडतर्फी व सेवेतुन काढुन टाकणे यांचे काळातील प्रदाणे) नियम, १९८१ च्या नियम ७१ (२) नुसार त्यांना द्यावे तसेच सेवेतील गैरहजरीचा कालावधी सेवानिवृत्त वेतनाचे प्रयोजन सोडुन इतर कोणत्याही प्रयोजनासाठी कर्तव्य काळ म्हणून गणणेत येवु नये.”

He has further submitted that the identical and similar issue was involved in the O.A. No. 337/2011 before the Principal Seat of this tribunal at Mumbai. The Principal Seat of this Tribunal has considered the provisions under Section 47 of the Act of 1995, judgment of the Hon'ble Apex Court in case of KUNAL SINGH VS. UNION OF INDIA AND ANOTHER 2003 SCC (L & S) 482 and thereafter allowed the Original Application and extended the benefit of Section 47 of the Act of 1995 to the applicant. In that matter also, the applicant had suffered from the disability due to paralysis attack.

16. Learned Advocate for the applicant has further submitted that this Tribunal had also an occasion to consider the similar issue in O.A. No. 307/2014, which was decided on 14.11.2014. In that matter also the deceased employee had suffered from paralysis attack

and, therefore, he was unable to discharge his duties as Police Head Constable. By considering the judgment of the Principal Seat of this Tribunal cited above, the Tribunal extended the benefit to the applicant in that matter.

17. He has submitted that the case of the applicant is squarely covered by the decisions rendered by this Tribunal, as well as, by the Hon'ble Apex Court as the facts in the matter are identical to the above cited decision and, therefore, he prayed to allow the O.A. and extend the benefit under Section 47 of the Act of 1995 and to direct the respondents to release the salary and other financial benefits to the applicant since March, 2015.

18. Learned Presenting Officer has submitted that respondent No. 2-A i.e. the Commissioner of Police, Aurangabad extended the benefit under Section 47 of the Act of 1995 to the applicant and accommodated him at Police Control Room, Aurangabad w.e.f. 27.4.2017. He has submitted that the benefit under Section 47 of the Act of 1995 has been extended to him by the order dated

29.8.2017 and 31.8.2017. He has submitted that the applicant has joined the duty accordingly, but thereafter had not reported on duty. Not only this, but he has not applied for any leave permissible to him and, therefore, his salary has not been released. He has submitted that there is no illegality on the part of the respondents and, therefore, he prayed to reject the O.A. accordingly.

19. Before considering the facts and entering into the merits of the matter, it is material to note that the applicant has claimed the relief to extend the benefit of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which was in existence when he filed the present O.A. on 7.2.2016. During the pendency of the O.A. the said Act of 1995 has been repealed by the Government by enacting "The Rights Of Persons with Disabilities Act, 2016". The Act of 2016 received the assent of the President on 27.12.2016 and it was brought into the force w.e.f. 19.4.2017. In the newly enacted Act

synonymous provisions to that of Section 47 has been made in Section 20 (4) of the Act, which is as follows: -

“20. Non-discrimination in employment.-

1.

2.

3.

4. No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, wherever is earlier.

5.”

20. Since the new Act has been came into force, I have to consider the present application in view of the provisions made therein and, therefore, I have to consider the

provisions of Section 20 of the Rights of Persons with Disabilities Act, 2016.

21. Admittedly, the benefits under Section 20 of the Rights of Persons With Disabilities Act, 2016 (earlier Section 47 of the Act of 1995) has been extended to the applicant. The only part to be complied by the respondents is to release the financial benefits to the applicant and to release his pay.

22. The respondents have not released the salary to the applicant only on the ground that he had not joined his duty. There is nothing in Section 20, which provides that the person acquiring disability has to discharge his duties for getting the benefit under this Section. On the contrary, the Act is a special legislation dealing with persons disabilities to provide equal opportunities, protection of rights and full participation to them. The provision of Section 20 of the Act seeks to prohibit every establishment to discriminate any person with disability in any matter relating to employment. Therefore, it is mandatory on the part of the respondents to shift the

employee, who acquired disability during his service to some other post with the same pay scale and service benefits. If it is not possible to adjust him to any other post then he should be kept on supernumerary post until suitable post is available or he attains the age of superannuation, whichever is earlier. The said provision is incorporated in the proviso to Sub-Section 4 of Section-20 of the Rights of Persons with Disabilities Act, 2016 (Section 47 of the Act of 1995). The very object of the said provision is to provide equal opportunity to the applicant and to give the service benefits to him, but the respondents had acted in contravention of the said provision by not releasing his pay since March, 2015. The Hon'ble Apex Court has dealt with this issue and has held that once the employee establishes a disability during his service and if he found not suitable for the post, which he was holding, he is entitled to get the benefit under Section 47 of the Act of 1995. The principle laid down by the Hon'ble Apex Court in case of *KUNAL SINGH* (supra) is most appropriately applicable to his case. Not only this on the basis of the decision of the Hon'ble Apex Court, the

Principal Seat of this Tribunal at Mumbai has held that the applicant in that case is entitled to get the benefit of Section 47 of the Act of 1995. Not only this, but this Tribunal has also considered the said aspect in O.A. No. 307/2014 and extended the benefit to the applicant in that matter. The principles laid down in the said decisions are appropriately applicable in the instant case. Therefore, in my view the applicant is entitled to get the benefit under Section 20 of the Rights of Persons with Disabilities Act, 2016 (Section 47 of the Act of 1995). Consequently, he is entitled to get the financial benefits like salary etc. The respondents have illegally stopped to make the payment to the applicant since March, 2015. Therefore, it is just and proper to direct the respondents to disburse the salary to the applicant since March, 2015, which is due and payable to him.

23. Learned Presenting Officer has submitted that the disability certificate has not been issued by the competent authority or the Board and, therefore, the same cannot be relied upon. But I do not find any substance in his

submission since the respondents have not raised any dispute about the competency of the authority of the board, which issued the certificate and on the basis of the said Disability Certificates the respondents have extended the benefit under Section 47 of the Act of 1995 i.e. Section 20 of the New Act to the applicant. Therefore, submission advanced by the learned Presenting Officer cannot be taken into consideration.

24. In view of the above said discussion, the applicant is entitled to get all the service benefits attached to the post as he has acquired disability during his service and he is found not suitable for the post, which he was holding i.e. the post of Police Inspector. Therefore, he is entitled to receive all the service benefits as provided under proviso to sub section 4 of Section 20 of the Act (Section 47 of the Act of 1995).

25. Considering the above discussion the applicant is entitled to get financial benefits and service benefits attached to the post on which he was serving in view of the provisions of Section 20 (4) of the Rights of Persons

with Disabilities Act, 2016. Therefore, the Original Application deserved to be allowed.

26. Consequently, the O.A. is allowed. The respondents are directed to extend the service benefits including financial benefits to the applicant in view of the provisions of Section 20 (4) of the Rights of Persons with Disabilities Act, 2016. The respondents are directed to release the salary of the applicant w.e.f. March, 2015 immediately.

There shall be no order as to costs.

MEMBER (J)

PLACE : AURANGABAD.

DATE : 20TH MARCH, 2018.

O.A.NO.136-2016(SB)-HDD-2018-Arrears