

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 855 OF 2023**

**(Subject:- Pension & Other Benefits)**

**DISTRICT:-AURANGABAD**

**Ramesh s/o Govindrao Pawar,** )  
Age: 62 years, Occ: Retired as, )  
Senior Intelligence Officer (A.P.I.) )  
R/o. Plot No. 47-48, Saptshrungi Mata Nagar,) )  
Padegaon, Nasik Aurangabad Road, )  
Aurangabad, District Aurangabad. )  
Mobile No. 9421431681. ) **APPLICANT**

**VERSUS**

1. **The State of Maharashtra,** )  
Through its Additional Chief Secretary, )  
Home Department, Main Building, )  
Mantralaya, 6<sup>th</sup> Floor, Madam Kama )  
Road, Hutatma Rajguru Chowk, )  
Mumbai 400032. )
2. **The Commissioner of Police,** )  
Dr. Babasaheb Ambedkar Road, )  
Mill Conrner, Aurangabad, )  
District Aurangabad. )
3. **The Additional Deputy Commissioner)**  
State Intelligence Bureau, )  
Behind Police Bhavan, )  
Sneh Nagar, Aurangabad. )  
District Aurangabad. ) **RESPONDENTS**

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**APPEARANCE** : Smt. Vijaya Adkine, learned Counsel  
for the applicant.

: Smt. Sanjivani K. Deshmukh-Ghate,  
learned Presenting Officer for the  
respondent authority.

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**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**DATE** : **21.02.2024.**  
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### **O R A L - O R D E R**

Heard Smt. Vijaya Adkine, learned counsel for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent authorities.

2. By filing this Original Application the applicant is seeking directions to respondent authorities to release all the retirement benefits and also extend the benefits as per the 7<sup>th</sup> Pay Commission to the applicant and seeking further direction to respondent authorities to regularize the suspension period from 14.02.2012 to 22.04.2016 and to extend all the consequential benefits in respect of pay fixation and further treating the suspension period as duty period and to extend all the consequential benefits.

3. Brief facts giving rise to this Original Application are as follows:-

(i) The applicant was initially appointed as a Police Constable in the year 1983 and promoted as Police Sub-

Inspector in the year 2012. The applicant while working on the post of Police Sub-Inspector Crime No. 3009/2012 came to be registered against him under Section 7, 13 (1) (d) r/w. Section 13 (2) of the Prevention of Corruption Act, at Police Station, Kranti Chowk. Consequently the applicant was placed under suspension vide order dated 14.02.2012. By order dated 22.04.2016 the applicant came to be reinstated by the respondent authorities by revoking the suspension order and the applicant was posted at Control Room, Aurangabad. Further by judgment and order passed in Special Case (ACB) No. 11 of 2013 (arises out of Crime No. 3009/2012) by the Additional Sessions Judge, Aurangabad dated 09.07.2021, the applicant came to be acquitted. Being aggrieved by the same, the State has preferred an appeal which is still pending before the Hon'ble High Court of Bombay, Bench at Aurangabad.

(ii) It is the further case of the applicant that during pendency of the Special Case (ACB), the respondent authorities vide order dated 11.12.2013 had issued the memorandum to the present applicant, wherein the department enquiry was initiated against him. Though the enquiry office has submitted the report in the year 2015, the

disciplinary authority has not taken any action on that report.

(iii) It is the further case of the applicant that he came to be retired on attaining the age of superannuation on 31.10.2019. However, considering the pendency of the appeal preferred by the State against the order of acquittal, the department has neither released his pensionary benefits nor regularized the suspension period of the applicant. Further the applicant is also not granted benefits of 6<sup>th</sup> and 7<sup>th</sup> Pay Commission. By communication dated 27.01.2022, the respondent No.2 has communicated the applicant that the period of suspension will be regularized after the appeal against the acquittal will be decided by the Hon'ble High Court. Hence, this Original Application.

4. Learned counsel for the applicant submits that the applicant remained under suspension for more than 4 years and he also came to be acquitted in connection with the said Special Case by the Special Judge, Aurangabad. Though the State has preferred the appeal against the acquittal of the applicant which is pending before the Hon'ble High Court of

Bombay, Bench at Aurangabad, however, it is not certain as to when the appeal will be listed for hearing.

5. Learned counsel for the applicant submits that in the identical facts of the case, the Hon'ble High Court of Bombay, Bench At Aurangabad in Writ Petition No. 6650/2020 in the case of **Ashfakali Khan Abdulali Khan Vs. State of Maharashtra & Ors.** by order dated 25.10.2021 has allowed the petition partly with the rider that the petitioner shall tender an affidavit/undertaking to respondent authorities stating therein that if he suffers an adverse order in the pending proceedings for challenging the acquittal and his acquittal is converted into conviction, he shall return the entire gratuity amount within 8 weeks from such adverse judgment, subject to his right to challenge the said judgment. All consequences flowing from such conversion of acquittal into conviction would bind the petitioner to the extent of the monetary relief that he would be getting in view of the order. Learned counsel for the applicant has also placed on record the judgments passed by this Tribunal in the identical cases.

6. Learned Presenting Officer submits that in terms of the view taken by the Hon'ble High Court in the aforesaid

case, appropriate order may be passed with further directions to the respondents to pass an appropriate order to the extent of benefits as per 7<sup>th</sup> Pay Commission so also with regard to the regularization of the suspension period.

7. In the instant case, the applicant remained under suspension for more than 4 years. The said order of suspension came to be revoked by the respondent authorities on 22.04.2016. Further the applicant came to be acquitted in connection with the case by judgment and order passed by the Sessions Court dated 09.07.2021 in Special Case (A.C.B.) No. 11/2023. Even though the appeal against the acquittal of the applicant preferred by the State is pending before the Hon'ble High Court of Bombay, Bench at Aurangabd, in terms of the view taken by the Hon'ble High Court in Writ Petition No. 6650 of 2020, the applicant in the instant case can be directed to submit undertaking and on the basis of same, the pension and pensionary benefits can be released to the applicant. Hence, the following order.

**ORDER**

The Original Application is allowed in terms of prayer clauses 'B' & 'C' with the following riders:-

- (A) The applicant shall tender an affidavit/undertaking to respondents stating therein that if he suffers an adverse order in the pending proceedings for challenging the acquittal and his acquittal is converted into conviction, he shall return the entire gratuity amount within 8 weeks from such adverse judgment, subject to his right to challenge the said judgment. All consequences flowing from such conversion of acquittal into conviction would bind the applicant to the extent of the monetary relief that he would be getting in view of this order.
- (B) After such affidavit is filed satisfying the above stated ingredients, the respondents shall initiate steps for compliance of prayer clause “B’ to the extent of releasing of the retiral benefits only and ensure that such compliance is made within 12 (twelve) weeks from the date of the filing of such affidavit by the applicant.
- (C) The respondents shall pass an appropriate order to grant benefit of 7<sup>th</sup> Pay Commission and so also regularize the suspension period i.e. from 14.02.2012 to 22.04.2016 and to extend all the

consequential benefits in respect of pay fixation and further treating the suspension period as duty period and to extend all the consequential benefits in terms of Rule 72 of Maharashtra Civil Services (Joining Time, Foreign Service and Payments during suspension, Dismissal and Removal) Rules, 1981 within the said period of 12 weeks.

- (D) In the circumstances, there shall be no order as to costs.
- (E) The Original Application is accordingly disposed of.

**MEMBER (J)**

**Place:-Aurangabad**

**Date : 21.02.2024**

SAS O.A. 855/2023 (S.B.) Pension & Other benefits