

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 980/2022(S.B.)**

Ratan Damaji Mankar,
aged about 57 years,
Occupation: Service, R/o Plot No. 221,
Guru Tegbahadursing nagar,
Nari road, Nagpur, Tah. & Dist. Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Bombay (Mumbai).
- 2) The Police Superintendent,
Loh Marg (Railway), Nagpur.
- 3) The Additional Director General of Police (Railway),
Maharashtra State,
Mumbai.

Respondents

Shri S.N.Gaikwad, Ld. Counsel for the applicant.

Shri A.M.Khadatkar, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).

Dated: - 02rd May 2023.

JUDGMENT

Judgment is reserved on 28th April, 2023.

Judgment is pronounced on 02rd May, 2023.

Heard Shri S.N.Gaikwad, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the respondents.

2. An offence was registered against the applicant and two others under Sections 325, 342, 218 r/w 34 of I.P.C.. The applicant and the co-accused were placed under suspension. By judgment dated 25.05.1992 (Annexure A-1) Criminal Case bearing R.C.C. No.51/90 ended in acquittal. By order dated 03.10.1992 (Annexure A-2) it was directed that the period of suspension of the applicant between 02.06.1989 and 02.12.1991 shall be treated as such. It was further directed that the period of suspension was to be treated as qualifying period for the purpose of pension. The order dated 03.10.1992 was challenged by the applicant and another co-accused in O.A.No.821/1995 and by judgment dated 23.09.2003 (Annexure A-3) this Tribunal dismissed the O.A.. The applicant again requested the authorities to treat period of his suspension as duty period. On 24.05.2021 order (Annexure A-6) was passed by respondent no.3 as follows-

2. पोलीस अधीक्षक, लोहमाग, नागपूर कार्यालयाचे आदेश क्र. १ / - / / , १ . / / अन्वये अजदार / श्री . १
१ पयतचा निलंबन कालावधी हा निलंबन गणण्यात आला असून सदर कालावधी हा फक्त सेवानिवृत्ती

करिता अहताकारा सेवा गणण्यात येईल असे अंतिम आदेश

1, प्रस्तुत प्रकरणात अजदार / , श्री .

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कतव्यकाळ गणण्यात येवून वेतन व भत्ते आकारण्यात यावे याबाबत विलंबाने विनंती अज सादर केला आहे.

/ , श्री . रतन मानकर यांची विनंती अमान्य

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By communication dated 01.04.2022 (Annexure A-7) the applicant was accordingly informed. Hence, this O.A. for following reliefs-

ii. be pleased to quash and set aside the communication dated 01.04.2022 issued by the respondent No. 2 and also the communication dated 24.05.2021 issued by respondent No. 3 as the same is arbitrary and illegal;

iii. Further direct the respondent No 2 to count the suspension period for the purpose of pensionable service and release the benefit thereon and further direct to release the increment for the period of suspension and treat the same for pensionable purpose;

iii. Further direct the respondent No 2 to count the suspension period for the purpose of pensionable service and release the benefit thereon and further direct to release the increment for the period of suspension and treat the same for pensionable purpose;

3. Stand of respondent no.2 is as follows. On 03.10.1992 order was passed that period of suspension was to be treated as such except for computing the same as qualifying service period for pension. While passing this order Rule 72(5) of ***the Maharashtra Civil Services (Joining time, Foreign Service and Payments During Suspension, Dismissal and Removal) Rules, 1981*** was taken into account. This order was upheld in

O.A.No.821/1995. There would be no question of reconsidering validity of order dated 03.10.1992 again and that, too, after 28 years.

4. In this O.A. the applicant, in effect, is again challenging order dated 03.10.1992 which has attained finality by virtue of judgment dated 23.09.2003 passed by this Tribunal in O.A.No.821/1995. The cause could not have been revived thereafter by making an application to reconsider the order dated 03.10.1992. The O.A. is misconceived. It is accordingly dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 02/05/2023
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J) .
Judgment signed on : 02/05/2023.
and pronounced on