

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATION NO.149 OF 2017**

**DISTRICT : THANE**

Shri Shailendra Raghunath Nagarkar, )  
Police Inspector, Crime Branch, Kalyan, )  
R/at 902, Bhaskar, New Police Quarters, )  
Near Thane Police School, Court Naka, Thane (West) )..Applicant

Versus

1. The State of Maharashtra, )  
Through State Home Minister (Urban), )  
Mantralaya, Mumbai 400032 )
2. The Commissioner of Police, Thane )
3. The Additional Commissioner of Police, )  
West Region Thane, District Thane )
4. Deputy Commissioner of Police, )  
(Crime Branch), Thane having office at office of )  
The Commissioner of Police, Thane )
5. The Director General of Police, )  
Maharashtra Police Head Quarters, S.B. Marg, )  
Opp. Regal Cinema, Colaba, Mumbai )..Respondents

Shri S.R. Deshpande – Advocate for the Applicant

Ms. Neelima Gohad – Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)

DATE : 25<sup>th</sup> September, 2019

### **J U D G M E N T**

1. Heard Shri S.R. Deshpande, learned Advocate for the Applicant and Ms. Neelima Gohad, learned Presenting Officer for the Respondents.

#### **Brief facts:**

2. The applicant was working as Crime Police Inspector, Mumbra Police Station. On 2.5.2013 an offence was registered under Section 376, 328, 201 of IPC and applicant was given the investigation. After doing the needful including medical examination, obtaining reports from Forensic Laboratory pertaining to DNA test and recording statement of witnesses, the applicant submitted charge sheet on 15.8.2013. Trial court after examining relevant material and evidence delivered judgment on 31.10.2014. Trial court convicted the accused and imposed punishment of life imprisonment and fine of Rs.5000/-. The accused was also made to suffer Rigorous Imprisonment for 5 years separately under Section 328 of the IPC. The accused was also convicted under Section 201 and sent to suffer Rigorous Imprisonment for one year along with fine. The trial Court appreciated efforts made by the Investigating Officer/Applicant for furnishing “clinching medical evidence from 5 medical experts”.

3. Meanwhile respondent no.3 (Additional Commissioner of Police) issued show cause notice to the applicant for “lapses” in the investigation

(Exhibit A page 13-16E). Respondent no.3 not satisfied with the reply given by the applicant imposed the punishment of stoppage of annual increment for a period of 3 years on the applicant on 2.12.2013 (Exhibit C page 21). The applicant thereafter submitted an appeal against the same to respondent no.1. The applicant was heard in person by the appellate authority and confirmed the punishment on 8.11.2016 (Exhibit H page 86) upholding the punishment of suspending the annual increments for a period of 3 years.

4. Aggrieved by this impugned order of respondent no.3 and respondent no.1 dated 2.12.2013 and 8.11.2016 respectively the applicant has made following prayers:

*“IX (1) This Hon’ble Tribunal be pleased to quash and set aside the impugned order dated 8.11.2016 passed by the respondent no.1 appellate authority thereby confirming the order dated 2.12.2013 passed by the respondent no.3 thereby of stoppage of increments of the applicant for 3 years.*

*(2) That this Hon’ble Tribunal be pleased to quash and set aside the order of stoppage of increments of the applicant for 3 years passed by the respondent no.3.”*

(Quoted from page 11 of OA)

5. In support of the prayers the applicant submitted that he had completed the investigation with diligence and without leaving any lacunas. He further submits that as a result of the same the trial court had convicted the accused with life imprisonment and rigorous imprisonment under relevant provisions along with fine. Moreover, the Deputy Commissioner of Crime appreciated the investigation and awarded the applicant and his team for the efforts undertaken and gave a cash

award of Rs.2500/-. The applicant submits that he had brought to the notice the fact of conviction to the appellate authority in writing on 18.2.2015 (Exhibit G page 84) and submitted that the punishment given to him may be quashed. However, the same was not taken into account. The impugned order does not even discuss the explanation submitted by the applicant and is cryptic. The punishment imposed against him has been issued without application of mind and therefore deserves to be quashed and set aside.

Submissions by the respondents:

6. The respondents no.1, 2 and 3 have filed their affidavits contesting the submissions made by the applicant. The relevant portion from the affidavit of respondent no.1 is at para 7 which reads as under:

*“7. The applicant has been awarded the punishment of stoppage of increment for 3 years by respondent no.3 on account of 16 charges leveled against him. The applicant preferred appeal to the State Government against the said order of respondent no.3. The applicant was heard by the appellate authority. After considering the oral submission and written representation of the applicant as well as the facts and circumstances of the case, the appellate authority decided to confirm the punishment awarded to the applicant by respondent no.3 and rejected his appeal. I say and submit that as the respondent no.1 has considered all the facts and circumstances of the case, the averment raised by the applicant in these paras is devoid of merits.”*

(Quoted from page 99 of OA)

7. Respondents no.2 & 3 have submitted their affidavit. The relevant portion of the same reads as under:

*“9. It is true that respondent no.3 issued show cause notice to the applicant alleging that the applicant had neglected the discharge of his duties and he is not properly investigated the said serious offence and had in fact intentionally kept lacunas in the investigation so as to aid and assist the accused.”*

*18. .... The conviction of the accused in the Mumbra CR 358/13 is totally based on statement of witnesses. I say that (Investigation Officer) applicant has neglected the discharge of his duties and he had not properly investigated the said serious offence and had in fact intentionally kept lacunas in the investigation so as to aid and assist the accused. In this case Investigation Officer had not collected material and circumstantial evidence and Investigation Officer did panchanama after 5 days from registration of the offence. Moreover, Investigation Officer seized victim case paper and IP register after the 3 days from the registration of the offence and they kept major lacunas.”*

(Quoted from page 90-93 of OA)

8. The respondents have prayed that the OA is without any merits and be dismissed.

Discussion and findings:

9. I have examined the charges levelled against the applicant in the show cause notice, replies submitted by the applicant, the impugned order dated 2.12.2013 passed by respondent no.3 and the impugned order dated 8.11.2016 passed by respondent no.1. I have also gone through the judgment given by the trial court. During course of investigation the applicant who is working in Crime PI in Mumbra Police Station has taken precaution that the accused does not go scot free. He has examined the relevant witnesses, pursued the matter with the government medical officers to obtain clinching medical evidence, obtained reports from

Forensic Laboratory and examined the witnesses relevant in the case. I find there is no material on record to support the allegations made against the applicant that he deliberately and intentionally did not investigate the offence adequately. There is no material on record to indicate that the applicant made any of the alleged lapses with the intention of spoiling the investigation. In fact the judgment given by the trial court has appreciated his efforts after examining the relevant evidence in great detail. The fact that the Deputy Commissioner, Crime has given cash award to him confirms the same. The impugned orders issued by respondent no.1 and respondent no.3 appear to be without applying mind as explanations submitted by the applicant are nowhere discussed or discarded. The punishment awarded to the applicant therefore appears to be totally out of place and in disregard to the efforts done, as confirmed by the Trial Court.

10. In view of the above reasons, I find that the impugned orders are liable to be quashed and set aside.

11. The Original Application therefore succeeds in terms of prayer clause IX (1) and (2). The impugned orders are quashed and set aside. No orders as to costs.

**(P.N. Dixit)**  
**Vice-Chairman (A)**  
**25.9.2019**

Dictation taken by: S.G. Jawalkar.