

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.66 OF 2019

DISTRICT : MUMBAI

Shri Dinesh Sahadev Shinde,)
Age 58 years, occ. Retired Police Constable,)
R/at Mograwadi, Maninagar, Plot No.10, Ward No.6,)
House No.276, Opp. Gujarati School, Valsad, Gujarat)..Applicant

Versus

1. The State of Maharashtra,)
Through the Secretary (Home),)
Home Department, Madam Cama Road, Shahid)
Bhagatsingh Road, Hutatma Rajguru Chowk,)
Mantralaya, Mumbai 400032)
2. Commissioner of Police,)
Area Manager Building, P. D'Mello Road,)
Wadi Bunder, Mumbai 400003)
3. Deputy Commissioner of Police (DCP),)
Western Zone, Railways, Ghass Bazar,)
Near DRM Western Railways Office,)
Mumbai Central, Mumbai)
4. Asstt. Commissioner of Police (Administration),)
Area Manager Building, P. D'Mello Road,)
Wadi Bunder, Mumbai 400003)..Respondents

Shri K.R. Jagdale – Advocate for the Applicant

Smt. Archana B.K. – Presenting Officer for the Respondents

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

RESERVED ON : 15th July, 2019

PRONOUNCED ON : 17th July, 2019

J U D G M E N T

1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.

2. The applicant was working as Police Naik in the office of respondent no.2. On 25.2.2013 an offence was registered against him under Section 420, 170, 384, 304 and 114 of IPC and he was arrested on 27.7.2013. As a fallout of the same he was suspended from 27.7.2013 and his services were terminated on 12.2.2016 in terms of Article 311(2)(b) of the Constitution of India. On 8.8.2016 the Hon'ble Sessions Court at Valsad acquitted the applicant. In view of his acquittal respondent no.1 directed respondent no.2 on 6.5.2017 to consider his application. On 9.10.2017 respondent no.1 directed respondent no.2 to reinstate the applicant and give him consequential benefits of service. Accordingly, respondent no.2 reinstated the applicant on 23.10.2017. The applicant requested respondent no.2 to regularize his services and grant and/or treat the period from 14.2.2016 to 23.10.2017 as duty period. On 31.10.2018 respondent no.2 treated the period from 14.2.2016 to 23.10.2016 as extraordinary leave. However, though the period from 27.7.2013 to 12.2.2016 was treated as duty period, no arrears have been released. The applicant has, therefore, prayed for directions to the respondents to pay arrears.

3. The respondent no.2 has filed affidavit. The relevant portion of the same reads as under:

“16. The period of suspension is regularized by order dated 3.2.2018 and the period from 14.2.2016 to 23.10.2017 was treated as out of service i.e. “Extra Ordinary” because during that period applicant was in custody since from the date of arrest till his acquittal.”

(Quoted from page 74 of OA)

4. The only period to be decided according to the applicant is from 27.7.2013 to 12.2.2016. The affidavit by respondent no.2 states, “his suspension period was regularized as duty period i.e. from 27.7.2013 to 13.2.2016” (para 29, page 77 of OA).

5. The Ld. Advocate for the applicant draws attention to Rule 71 of MCS (Joining Time, Foreign Service and Payments during Suspension, dismissal and Removal) Rules, 1981 and mentions that the applicant is entitled for payment as per rules and seeks directions to respondent no.2 to decide the same.

6. In view of the foregoing, the Original Application is partly allowed and prayer clause IX (a) is conceded. The respondent no.2 is directed to comply with the provisions of Rule 71 of MCS (Joining Time, Foreign Service and Payments during Suspension, dismissal and Removal) Rules, 1981 and decide the representation made by the applicant on merits within a period of two months. No order as to costs.

Sd/-

(P.N. Dixit)
Vice-Chairman (A)
17.7.2019

Dictation taken by: S.G. Jawalkar.