

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 1136/2021(S.B.)**

1. Shantilal s/o Vikram Jadhav,  
Aged about 52 years,  
Occ. : Nayak Police Constable,  
R/o: Qtr. No.-186, Police Line  
Near Jagdamba Temple, At-Chikhli,  
Dist. – Buldhana. (Deceased).
1. a) Mrs. Sunita w/o Shantilal Jadhav,  
Aged about 46 years, Occ.: House wife,
1. b) Akash s/o Shantilal Jadhav,  
Aged about 28 years, Occ.: Nil.
1. c) Abhishek s/o Shantilal Jadhav,  
Aged about 28 years, Occ.: Student,  
All R/o: Qtr. No.-186, Police Line  
Near Jagdamba Temple, At-Chikhli,  
Dist. – Buldhana. (through LRs.)

**Applicants.**

**Versus**

1. The Secretary,  
Home Department,  
State of Maharashtra,  
Mantralaya, Mumbai – 32.
2. The Director General of Police,  
Shahid Bhagatsingh Marg,  
Colaba, Mumbai-01.

3. The Special Inspector General of Police,  
Amravati Division, Amravati.
4. The District Superintendent of Police,  
S.P. Office, State Bank of India Squire,  
Buldhana - 443001.

**Respondents**

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Shri S.M.Khan, Ld. Counsel for the applicants.  
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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**Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.**  
**Dated: - 12<sup>th</sup> January, 2024.**

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**JUDGMENT**

Heard Shri S.M.Khan, learned counsel for the applicants  
and Shri A.M. Khadatkar, learned P.O. for the Respondents.

2. Case of the applicants in short is as under-

Deceased applicant was arrested and prosecuted for the  
offence punishable under the Prevention of Corruption Act, 1988.  
The applicant no.1 was suspended as per the order dated  
17.07.2008. The respondents have not initiated any departmental  
enquiry against the applicant. During the pendency of this O.A.,  
applicant died. Hence, legal heirs i.e. applicant nos.(a), (b) & (c) have  
continued this proceedings.

3. The Special Judge, Malakapur in Special Case No-Spl (ACB)-02/2012 on dated 07.02.2018 acquitted the deceased applicant by recording findings that the prosecution has not produced any evidence to prove the Offence against him. The deceased applicant was clearly acquitted by the Special Judge. Therefore, the punishment imposed by the respondents is liable to be quashed and set aside. Hence, the deceased applicant has approached to this Tribunal for the following reliefs-

- i) quash and set aside the Order No-17/2020/2679 dated 23/07/2020 passed by the Respondent No-3 of rejecting the Appeal.*
- ii) quash and set aside the Order No- 67/1156/10174/2019 dated 09/08/2019 passed by the Respondent No-4 of Stoppage of Annual Increment for the period of three years and treating suspension period from 15/07/2008 to 01/03/2016 as suspension period.*
- iii) To treat the suspension period from 15/07/2008 to 01/03/2016 as duty period and pay the difference of salary.*
- iv) To release all consequential service benefits of the suspension period from 15/07/2008 to 01/03/2016 with yearly increments as per rules.*
- v) To pay the arrears of service benefits of suspension period with interest there on.*

4. The O.A. is strongly opposed by the respondents. In para 14, the respondents have stated that preliminary enquiry was conducted and in the preliminary enquiry it was found that the deceased applicant has committed misconduct and, therefore, punishment was imposed. It is stated in the reply that because of the pendency of criminal case, preliminary enquiry was kept in the dormant file. It is submitted that the deceased applicant has demanded and accepted the bribe and, therefore, he is responsible to damage the image of police department in public. Hence, the punishment is imposed against the deceased applicant. He is not entitled for suspension period to treat as duty period. Hence, the O.A. is liable to be dismissed.

5. The learned counsel for the applicants has pointed out the observation of Special Court and submitted that the deceased applicant was clearly acquitted by the Court and, therefore, the suspension period is to be treated as duty period. In support of his submission pointed out the Judgment of this Tribunal in O.A.No.564/2021 decided on 19.10.2023.

6. The learned P.O. submits that as per the preliminary enquiry it was found that the deceased applicant has demanded and accepted the bribe and, therefore, punishment was imposed.

7. Deceased applicant was acquitted by the Session Court by recording findings in para no.27. It is reproduced below-

*27. Considering the overall effects of evidence and the observations of Hon'ble Supreme Court and Hon'ble High Courts, the prosecution has failed to prove the demand and acceptance of bribe amount by the accused. It is the duty of prosecution to prove its case on the basis of evidence of the witnesses and other documents. In every criminal case, it is important to prove ingredients of said offence. But in this case, the prosecution has totally failed to bring home the guilt of accused for above mentioned offence. In the above facts and circumstances of the case the accused are entitled for acquittal. Nobody claimed the seized muddemal property i.e. five notes of denomination of Rs. 100/- therefore, it is necessary to hand over the same to Dy.S.P. ACB, Buldana for forwarding the same to Government Mint at Nashik for disposal according to law. The other seized property became worthless and unclaimed, is liable to be destroyed. Hence, I answer points No. 1 to 3 in negative and in answer to point No.4, pass the following order;*

8. From the perusal of the findings of the Special Judge, it is clear that the accused deceased applicant was clearly acquitted. It is the specifically held by the Session Court that the prosecution has failed to prove the demand and acceptance of bribe amount by the

deceased applicant and, therefore, the deceased applicant was acquitted.

9. Rule 72 of the Maharashtra Civil Services (Joining time, Foreign Service and Payments During Suspension, Dismissal and Removal) Rules, 1981 is very clear. If in the Judgment benefit of doubt is given then it is for the employer to decide as to whether suspension period is to be treated as duty period or not. The deceased applicant was clearly acquitted by the Special Judge by specific findings recorded as above. Therefore, without conducting any departmental enquiry the punishment imposed by the respondents against the deceased applicant treated the suspension period as it is and stoppage of three increments is not legal and proper.

10. The reply itself shows that no any departmental enquiry was conducted by the respondents. The deceased applicant was clearly acquitted by the Special Judge. Hence, the stoppage of increment and treating the suspension period as it is liable to be quashed and set aside. Hence, the following order.

### **ORDER**

1. The O.A. is allowed.

2. The impugned order dated 04.07.2019 is hereby quashed and set aside.

3. The respondents are directed to treat the suspension period of the deceased applicant as duty period and pay the consequential benefits to the applicants. The punishment for stoppage of three increments is also hereby quashed and set aside.

4. The respondents are directed to pay the consequential benefits to the applicants **within a period of three months** from the date of receipt of this order.

5. No order as to costs.

**(Justice M.G.Giratkar)**  
**Vice Chairman**

**Dated - 12/01/2024.**  
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 Vice Chairman.  
Judgment signed on : 12/01/2024.  
Uploaded on : 22/01/2024.