

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.525/2024 (S.B.)

Sanjay Balraj Sandalwar,
Aged about 59 years, Occupation : Retired,
Resident of Plot No.13-C, New Mankapur,
In front of Masjid Mandir, Nagpur.

... **APPLICANT**

// V E R S U S //

- 1] The State of Maharashtra,
Through its Secretary,
Department of Home Affairs,
Mantralaya, Mumbai-32.
- 2] The Superintendent of Police,
Nagpur - Rural, District : Nagpur,
Civil Lines, Nagpur.

... **RESPONDENTS**

**S/Shri Bharat Kulkarni and Sunil Pande, Ld. Advs. for
the Applicant.**

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

**Coram :- Hon'ble Shri Justice M. G. Giratkar,
Vice Chairman.**

Dated :- 28/01/2025.

J U D G M E N T

Heard Shri Sunil Pande, learned counsel for the applicant and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. The case of applicant in short is as under:-

Applicant was appointed as a Police Constable in the Year 1990. Applicant was found in possession of illicit country liquor. He was also found under the influence of at public place. Therefore, offence punishable under Sections 66(i)(b) and 85(i) of the Bombay Prohibition Act registered against him. The service of the applicant was terminated. The said order was challenged before this Tribunal in O.A. No.186/1993. This Tribunal has come to the conclusion that without any enquiry, the service of the applicant was terminated as per the provisions of Article 311 (2) (b) and therefore the said order was quashed and set aside and directed the respondent to reinstate the applicant. However, it was held that applicant was not entitled for backwages. It was also held that applicant was entitled for seniority. Applicant is not getting pay scale by granting increment of 1990-1995, therefore, his salary is less as compared to his junior. Therefore,

the present O.A. is filed for direction to the respondents to grant 5 annual increments.

3. O.A. is strongly opposed by the respondents. It is submitted that the applicant was terminated because he had committed offence punishable under Sections 66(i)(b) and 85(i) of the Bombay Prohibition Act. The said order was challenged before this Tribunal. This Tribunal has set aside the said order, but no any backwages were granted to the applicant. Therefore, applicant is not entitled to get annual increment from the year 1990-1995. Hence, the O.A. is liable to be dismissed.

4. During the course of submission, learned counsel for applicant has pointed out Judgment of Delhi High Court in W.P.(C) 7602/2019 in the case of *Devender Kumar VS Union of India and Ors*, decided on 27/09/2023. As per his submission, if the seniority is granted, then notional increment is bound to be granted. He has pointed out Para 13 of the Judgment. From the reading of Para 13 of the Judgment, it is clear that backwages, continuity of service and consequential benefits are not a natural

and necessary consequence of such reinstatement. Para 13 of the Judgment is reproduced below:-

“13. In terms of Om Pal Singh (supra), back wages, continuity of service and consequential benefits are not a natural and necessary consequence of such reinstatement. However, in the case of petitioner, the authorities have been benevolent enough to grant him full continuity of service with all consequential benefits including seniority except back wages.”

5. From the Judgment cited by the side of applicant itself it is clear that it is not a natural consequence to grant annual increment, etc by setting aside the reinstatement. Moreover, it was observed that respondents have already shown enough indulgence to the petitioner in revoking termination, etc with all consequential benefits. The cited Judgment is on different footing, it is not applicable to the case in hand. Moreover, Para 13 of the Judgment is very clear. Grant of consequential benefits such as backwages, continuity of service, are not a natural and necessary consequence of the reinstatement. This Tribunal by quashing the termination order directed to reinstate the applicant, but no any consequential benefit was given, however, only benefit of seniority was given. Therefore, applicant cannot say that he is

entitled for the annual increment of the Year 1995. Moreover, the relief prayed in this O.A. is reproduced below:-

“9]A] Direct respondents to grant applicant fixation by granting him 5 annual increments [1990 to 1995], in pursuance to the order passed by this Hon. Tribunal in Original Application No.186/1993 dated 13th July 1995 with all consequential benefits.”

6. From the reading of the relief prayed in this O.A., it is clear that applicant wanted to show that in the earlier O.A. such relief was granted by the Court, whereas, the order of this Tribunal is very clear. Para 9 of the Order in O.A. No.186/1993 is reproduced below:-

“9. Seen in the circumstances as discussed above, and the provisions of law, we feel the applicant deserves relief in the present case and the impugned orders have to be quashed. The orders are therefore quashed and set aside and the respondents, more particularly the respondent no.2 is directed to reinstate the applicant within a period of 2 months from the date of this order. There will be no orders as to back wages. He has however to be accorded due seniority as per rules. No order as to costs.”

7. No such any direction was given by this Tribunal to grant annual increment from 1990 – 1995, whereas, the prayer shows that such relief was granted by this Tribunal. The applicant

is not entitled for consequential benefits only because he is reinstated by this Tribunal, as per the order of this Tribunal. The Judgment cited by the side of applicant in Para 13 clearly shows that no such consequential benefit deemed to be granted by setting aside the reinstatement. Hence, the following order:-

O R D E R

O.A. is dismissed with no order as to costs.

(Justice M.G.Giratkar)
Vice Chairman.

Dated :-28/01/2025.
PRM.

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

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 28/01/2025.