

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.117 OF 2024

DISTRICT : Mumbai
Sub.:- Retiral Benefits

Shri Sanjay Shivajirao Thakur.)
Age : 59 Yrs, Retired Assistant Police)
Inspector, R/at Sai Sagar CHS, A Wing,)
Room No.401, Sector 20, Kharghar,)
Navi Mumbai.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai – 400 032.)
2. The Addl. Commissioner of Police,)
East Region, Chembur, Mumbai.)
3. The Commissioner of Police.)
Near Crawford Market, CST,)
Mumbai – 400 001.)...**Respondents**

Shri M.B. Kadam, Advocate for Applicant.

Smt. Archana B.K, Presenting Officer for Respondents.

CORAM : Shri M.A. Lovekar, Vice-Chairman

DATE : 10.03.2025

JUDGMENT

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

2. Facts leading to this OA are as follows. The Applicant was attached to Bhandup Police Station as 'API'. One Jyoti Pansare filed a complaint before the 'Maharashtra State Human Rights Commission' (hereinafter referred to as the 'Commission' for brevity) making certain allegations against the Applicant. By order dated 16th December, 2022, the Hon'ble Chairperson of the Commission disposed of the complaint. In order dated 16.12.2022, it was observed –

“It is crystal clear that in the civil dispute API Mr. Thakur tried to interfere using his post as a Police Officer. Therefore, I am of the opinion that the complainant whose case is that API Mr. Sanjay Thakur from Bhandup Police Station tortured the complainant for the reasons best known to him in civil dispute, is proved.”

In the operative part of the order, the Commission directed as follows :-

“a) The Addl. Chief Secretary, Home Department, Mantralaya, Mumbai and Dy. Commissioner of Police, Zone - VII, Mumbai is directed to consider the present case on its own merits for holding inquiry against Mr. Sanjay Thakur, Asst. Police Inspector presently working at Pant Nagar Police Station, Ghatkopar (E), Mumbai and take appropriate action against him according to law and also pay compensation of Rs.2,00,000/- (Rupees Two Lacs Only) to the complainant within two months from the receipt of the order to the complainant.”

3. By GR dated 17.02.2023, Respondent No.1 sanctioned amount of Rs.2,00,000/- to be paid to the complainant Jyoti Pansare. Respondent No.1 further directed initiation of enquiry and recovery of amount of Rs.2,00,000/- from those Police Officers/Police Personnel who were found to be guilty.

On 20.06.2023, Senior Police Inspector, Mulund Police Station, Mumbai submitted report of Preliminary Enquiry conducted against the Applicant to Respondent No.2. He concluded that the complainant had made a false complaint to the Commission because in Crime No.75/2021, she and Vidyulata Pansare were arrested and on account of such arrest, they had a grudge against the Applicant.

Respondent No.2, however, did not agree with the findings recorded in Preliminary Enquiry and proceeded to issue a Show Cause Notice dated 23.06.2023 to the Applicant. The Show Cause Notice stated that on account of observations made by the Commission, image of Police Department and the Government was maligned and because compensation of Rs.2,00,000/- was paid to the complainant, State Exchequer was needlessly burdened. The Show Cause Notice also referred to the nature of allegations which were levelled against the Applicant before the Commission and stated that the Applicant was liable to be punished under Rule 3 of the Bombay Police (Punishments & Appeals) Rules, 1956. The Show Cause Notice proposed punishment of withholding of one increment without cumulative effect.

On 26.06.2023, the Applicant submitted a detailed Reply to the Show Cause Notice.

By order dated 30.06.2023, the Applicant imposed the following punishment :-

“मी, अपर पोलीस आयुक्त, पूर्व प्रादेशिक विभाग, चेंबूर, मुंबई, मला मुंबई पोलीस अधिनियम १९५१ च्या कलम २५ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून सहायक पोलीस निरीक्षक संजय ठाकूर, तत्का. भांडूप पोलीस ठाणे, सध्या कार्यरत पंतनगर पोलीस ठाणे, यांना 'सध्याचे मुळवेतनाच्या १० टक्के इतकी रक्कम रु. ६,३२०/- (रु. सहा हजार तीनशे वीस रुपये फक्त) द्रव्यदंड' ही शिक्षा देण्यात येत आहे.

सदर आदेशाने कसुरदार सहायक पोलीस निरीक्षक संजय ठाकूर, तत्का. भांडूप पोलीस ठाणे, सध्या कार्यरत पंतनगर पोलीस ठाणे, मुंबई हे व्यथित होत असतील तर हे आदेश स्विकारल्याच्या दिनांकापासून ६० दिवसांच्या आत मा. अपर मुख्य सचिव, गृह विभाग, महाराष्ट्र शासन, मंत्रालय, मुंबई यांचेकडे योग्य त्या चाकोरीमार्फत अपिल अर्ज करू शकतात.”

This order also made a reference to the payment of amount of compensation of Rs.2,00,000/- made to the complainant Jyoti Pansare.

On 04.08.2023, the Applicant filed Appeal against order dated 30.06.2023. Page 1 of Memo of this Appeal states that it was directed against the order of punishment of recovery of Rs.6,320/- which is equivalent to 10% of his basic pay.

Hence, this OA impugning the order dated 26.06.2023 directing recovery of Rs.2,00,000/- from the Applicant towards the amount of

compensation which was paid to the complainant as per order passed by the Commission, and to direct Respondent No.1 to decide Appeal of the Applicant which is filed on 04.08.2023.

4. Stand of Respondent No.2 is as follows. As per GR dated 17.02.2023, amount of compensation which was paid to the complainant was to be recovered from the guilty Police Officer/Police Personnel. Though in Preliminary Enquiry, allegations against the Applicant were stated to have been levelled on account of a grudge, there were observations made by the Commission and there was sufficient material to indict the Applicant and hold him guilty. Proposal is forwarded to recover amount of Rs.2,00,000/- from the amount of gratuity payable to the Applicant.

5. I have quoted hereinabove relevant Para of operative part of the order dated 16.12.2022 passed by the Commission. The Commission had directed Respondent Nos.1 and 2 to consider the case against the Applicant on its own merits for holding enquiry against the him and to take appropriate action against him in accordance with law. Thereafter, Respondent No.2 entrusted the task of conducting Preliminary Enquiry against the Applicant to Senior Police Inspector, Mulund Police Station, Mumbai. In the Preliminary Enquiry, allegations levelled against the Applicant were held not to have been established. A finding was recorded that the complainant had made false allegations against the Applicant because she and one Vidyulata Pansare were arrested in Crime No.75/2021 registered at Bhandup Police Station under Section 448 read with 34 of IPC. Thereafter, on 23.06.2023, Respondent No.2 issued a Show Cause Notice to the Applicant proposing punishment of withholding of one increment without cumulative effect. Though, the Show Cause Notice also referred to the fact that on account of payment of compensation of Rs.2,00,000/- to the complainant, State Exchequer was needlessly burdened, and on account of said payment, image of the Department and the Government was maligned, said Notice did not

specifically state that the Applicant was liable to make good this loss and the amount was to be recovered from him. While passing the final order dated 30.06.2023, Respondent No.2 imposed punishment of recovery of Rs.6,320/- from the Applicant which was equivalent to 10% of his basic pay. The operative part of order dated 30.06.2023 is also silent about the Applicant being liable to pay amount of Rs.2,00,000/- to make good the loss caused to the Government on account of payment of compensation to the complainant.

6. I have narrated the chronology. The chronology does not reflect that pursuant to the order of Commission, proper enquiry was conducted to fix the responsibility for recovery of amount of Rs.2,00,000/- paid to the complainant as compensation.

7. In enquiry conducted against the Applicant, Respondent No.2 imposed punishment of recovery of amount of Rs.6,320/-. This order which is dated 30.06.2023 does not state that the Applicant was also liable to make good the loss of Rs.2,00,000/- towards amount of compensation which was already paid to the complainant. In this factual background, the impugned order dated 26.06.2023 cannot be sustained. It is accordingly quashed and set aside. The Respondents would be at liberty to proceed against the Applicant in accordance with law so far as recovery of Rs.2,00,000/- is concerned. Respondent No.1 is directed to expedite hearing of the Appeal dated 04.08.2023 filed by the Applicant. Original Application is allowed in these terms with no order as to costs.

Sd/-
(M.A. Lovekar)
Vice-Chairman

Mumbai
Date : 10.03.2025
Dictation taken by :
S.K. Wamanse.

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