

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO. 107/2020 (D.B.)

Sudhir S/o Shankarrao Nagose,
Aged about 42 years, Occ-Service,
R/o Gajanan Nagar, Ward No.1,
In front of Shiv-Parwati Mangal
Karyalaya, Wardha.

Applicant

Versus

- 1) The State of Maharashtra
through its Secretary,
Department of General Administration,
Mantralaya, Mumbai-32.
- 2) The Additional Director General
of Police, C.I.D. (Crime),
Maharashtra State, Pune.
- 3) The Superintendent of Police,
State C.I.D., Jafar Nagar Road,
Police Line Takli, Nagpur.

Respondents

Shri Shri N.A. Jachak, Id. Advocate for the applicant.

Shri A.M. Khadatkhar, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Justice Vinay Joshi, Member (J) &
Hon'ble Shri Nitin Gadre, Member (A)**

Dated :- 24.03.2025.

JUDGEMENT

Heard Shri N.A. Jachak, learned counsel for the applicants and Shri A.M. Khadatkhar, learned P.O. for the respondents.

2. The applicant belongs to Gond-Gowari (ST Category). The applicant was appointed on the post of Junior Clerk-cum-Typist in the Office of Commissioner of Police. The applicant's caste Claim of Gond- Gowari was forwarded for scrutiny, however, the Committee has invalidated the applicant's Caste Claim. The applicant has challenged the order of invalidation by way of Writ Petition, however, it was dismissed. Thereafter, the applicant was terminated on 13.02.2009 from service. The applicant has challenged order of termination/ discharge in O.A. No. 227/2009. The Tribunal has set aside the order of discharge and directed to reinstate the applicant vide its order dated 24.02.2015. The said order was not challenged and thus attained finality. After the said order, the applicant was reinstated vide order dated 12.05.2015.

3. In above background, the applicant was placed on supernumerary post on 31.12.2019 on the basis of G.R. dated 21.12.2019. The learned counsel appearing for the applicant would submit that once the protection was granted to the

applicant by the court of competent jurisdiction, it is erroneous on the part of respondent to place him on supernumerary post.

To substantiate said contention, the applicant heavily relied on the decision of Hon'ble High Court Bombay. Bench at Aurangabad rendered on 04.05.2021 in W.P. No. 903/2020 (Raja Tukaram Shinde Vs. State of Maharashtra & Another). Having regard to the legal position, the Hon'ble High Court has observed that once the judgment has concluded inter partes it cannot be allowed to reagitate unless the decision is reviewed or set aside by the Higher Forum. The relevant observations made by Hon'ble High Court in para nos. 23 to 25 reads as below:-

23. The matter can be viewed from another pedestal. The decision of a Court having jurisdiction even if is erroneous. is binding between the parties, unless set aside by the higher Court or unless the said judgment is reviewed. The correctness or otherwise of the decision of the High Court protecting the services of the petitioners would not be relevant. Even an erroneous judgment is as much binding between the parties as a correct one, unless set aside by the higher Court or reviewed by the same Court. Once the judgment is concluded inter partes, the parties cannot be allowed to re-agitate the issue decided by the Court of competent jurisdiction on the basis of subsequent Judgment of the Apex Court.

24. The employer at no stage after the order was passed by this Court granting protection to the services of the petitioners questioned the judgments of this Court and in a way accepted the said judgments. The employer after a long slumber cannot

be allowed to turn around and by executive instruction set aside the protection granted by this Court by exercising its jurisdiction under Article 226 of the Constitution of India. The petitioners are placed on supernumerary posts based upon the executive instructions of the Government dated 21 December, 2019. The Executive does not possess the authority to sit over the judgments of the High Court delivered in exercise of its powers under Article 226 of the Constitution of India. The judgments of this Court would be binding on the employer. The respondents cannot travel beyond the judgments and order of this Court if the respondent/employers were not satisfied by the judgments of this Court granting protection in service to the petitioners, they could have approached the Apex Court and/or immediately sought review of the judgments granting protection in service to the petitioners. The respondents did not avail the remedy available to them. On the contrary accepted the judgments without demur. Article 162 of the Constitution of India would not permit the executive to take a policy decision and issue the impugned resolution in defiance of the judgments of this Court. The judgments of this Court cannot be set at naught by the executive resorting to its powers under Article 162 of the Constitution and if it resorts to such an act, it would be an abuse of its powers and functions. The aforesaid discussion would lead us to conclude that once the judgment of this Court inter parties has become final and there is no element of fraud at the time of delivering the judgment by this Court, the said judgment would bind the parties and operate as a res judicata. The subsequent judgment of the Apex Court laying down the proposition of law different than the one on the basis of which the judgments are delivered by this Court and have attained finality cannot be reopened. Quietness will have to be given to the litigation. The protection granted by this Court to the employment of the petitioners in the writ petitions filed by them earlier bind the parties and shall continue

4. Undisputedly the applicant's services were protected by Court or Tribunal. In view of above position original application No. 107/2020 is **allowed**. We hereby quash and set aside the impugned order dated 08.01.2020 by which the applicant was put on supernumerary post. Needless to state that the applicant is entitled for all consequential benefits. No order as to costs.

Member (A)
kds.

Member (J)

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

Name of Steno : Krushna Dilip Singadkar

Court Name : Court of Hon'ble Member (J) & Member (A).

Judgment signed on : 24/03/2025