

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.217 OF 2024

**DISTRICT : Navi Mumbai
SUB : Suspension**

Shri Swapnil Ravikant Thale, Aged 39 Years,)
Police Sub Inspector attached to Shivaji Nagar)
Police Station, Malad (East).)
R/at Flat No.303, Narmada Tower, Railway)
Station Road, behind St. Stand, Panvel,)
Pin – 410206.)... **Applicant**

Versus

1) The Additional Chief Secretary, Home)
Department, Mantralaya, Mumbai 32.)

2) The Additional Director General of Police,)
Administration, Maharashtra State,)
Mumbai, State Police Headquarter, Old)
Council Hall, Shahid Bhagat Singh Marg,)
Mumbai 400 001.)... **Respondents**

Shri S. R. Thale, the Applicant in Person.

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

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

Reserved on : 27.03.2025

Pronounced on : 24.04.2025

JUDGEMENT

Heard Shri S. R. Thale, the Applicant in person and
Smt. Archana B. K., learned Presenting Officer for the
Respondents.

2. Undisputed chronology is as follows. At Poynad Police Station Crime Nos.35/2013 and 36/2013 were registered against the Applicant under Sections 341, 504, 506 of I.P.C. and Section 30 of Arms Act, and under Sections 376, 323, 504, 506 r/w 34 of I.P.C., respectively. Because of registration of these offences, the Applicant was placed under suspension by order dated 30-5-2013 w.e.f.7-5-2013. In Session Case No.134/2013 arising out of Crime No.36/2013 the applicant was acquitted of all charges by judgement dated 30-12-2017. In R.C.C. No.8/2014 arising out of Crime No.35/2013 C.J.M., Raigad-Alibag acquitted the Applicant of offences punishable under Sections 341, 504 and 506 of I.P.C. but convicted him for offence punishable under Section 30 of Arms Act, by judgment dated 20-1-2018. However, the Court, instead of imposing punishment for the said offence, directed release of the applicant under the Probation of Offenders Act on his executing a bond of good behavior for 1 year in the sum of Rs.5000/-. By order dated 13-6-2018 the applicant was reinstated in service. By order dated 13-7-2018 punishment of withholding of 2 increments with cumulative effect was imposed on the Applicant. By order dated 27-5-2019 the Appellate Authority reduced the punishment imposed by the Disciplinary Authority to 'Reprimand'. By order dated 20-9-2019 period of suspension of the Applicant from 7-5-2013 to 17-6-2018 was directed to be treated as such. Against order dated 20-9-2019 the applicant filed Original Application No.1205 of 2019. It was dismissed by judgment dated 11-1-2021. By judgment dated 6-4-2023 Additional Session Judge, Alibag set aside the order dated 20-1-2018 of conviction of the Applicant under Section 30 of Arms Act. On 18-4-2023 the applicant made a representation to the Director General of Police to treat period of his suspension as duty period. By order dated

18-8-2023 said representation was rejected. Hence, this Original Application.

3. The Applicant seeks to impugn orders dated 27-5-2019, 20-9-2019 and 18-8-2023. By order dated 27-5-2019 the Appellate Authority scaled down punishment of withholding of 2 increments with cumulative effect to 'Reprimand'. By order dated 20-9-2019 period of suspension of the Applicant was directed to be treated 'as such'. The Applicant challenged the latter order before this Tribunal in Original Application No.1205/2019. By judgment dated 11-1-2021 this Tribunal did not accept said challenge and proceeded to dismiss the Original Application. It was observed that the Applicant was suspended in view of registration of serious offences against him, he was convicted in a Criminal Case (under Section 30 of Arms Act) and there was punishment in departmental proceeding as well (which was scaled down to 'Reprimand' by order dated 27-5-2019). It is apparent that the Applicant could have challenged order dated 27-5-2019 in Original Application No.1205/2019 but he chose not to do so. Challenge to said order cannot be considered in this Original Application as it has become time barred. This Original Application is filed on 14-2-2024. There is one more circumstance which also needs to be adverted to i.e. representation dated 14-1-2025 submitted by the Applicant before Respondent No.1 to reconsider and set aside order dated 27-5-2019 to treat period of his suspension 'as such' in view of his acquittal under Section 30 of Arms Act by judgment dated 6-4-2023.

4. So far as challenge by the Applicant to order dated 20-9-2019 is concerned, it was rejected once by this Tribunal by judgment dated 11-1-2021. However, thereafter, the Appellate Court

acquitted him of offence punishable under Section 30 of Arms Act by judgment dated 6-4-2023. In view of this subsequent development, the Applicant submitted application dated 18-4-2023 that his period of suspension be treated as duty period. This application was rejected by order dated 18-8-2023 leading to filing of this Original Application.

5. But for the change in circumstances brought about by acquittal of the Applicant under Section 30 of Arms Act question of reconsidering order dated 20-9-2019 would not have arisen. In any case, the Applicant reagitated his grievance about said order by application dated 18-4-2023. While rejecting application dated 18-4-2023 the Disciplinary Authority observed -

“पोलीस उप निरीक्षक स्वप्निल रविकांत थळे, नेमणूक शिवाजीनगर पोलीस स्टेशन, मुंबई शहर यांनी मा.सत्र न्यायालय, रायगड अलिबाग यांनी दि.०६/०४/२०२३ च्या निर्णयान्वये दोषमुक्त केले असल्याने, त्यांचा निलंबन कालावधी कर्तव्यकाळ म्हणून गणणेबाबत दि. १८/०४/२०२३ च्या अर्जान्वये या कार्यालयास विनंती केली आहे.

पोउपनि थळे यांना या कार्यालयाचे संदर्भ क्र.०३ च्या आदेशान्वये त्यांची “वार्षिक वेतनवाढ २ वर्षे रोखणे (परिणामकारक)” ही शिक्षा देण्यात आली असून सदर शिक्षेविरुद्ध त्यांनी शासनास अपील अर्ज सादर केला असता, शासनाने त्यांचे क्र.पीडीई-१२१८/प्र.क्र.३६३/पोल-६ब, दिनांक २७/०५/२०१९ च्या आदेशान्वये उपरोक्त शिक्षा रद्द करून, “सक्त ताकीद” ही शिक्षा दिली आहे. म्हणजेच त्यांना पुर्णतः दोषमुक्त केले नाही. तसेच त्यांचा निलंबन कालावधी यापुर्वीच या कार्यालयाचे दिनांक २०/०९/२०१९ च्या आदेशान्वये जसाच तसे गणण्यात आला आहे.

उपरोक्त वस्तुस्थिती लक्षात घेता पोउपनि थळे यांनी त्यांचे दि.१८/०४/२०२३ च्या अर्जान्वये त्यांचा दि.०७/०५/२०१३ ते १७/०६/२०१८ पर्यंतचा निलंबन कालावधी नियमित करण्याबाबत केलेली विनंती अमान्य करण्यात येत आहे.”

In his rejoinder the applicant has stated -

“(ii) *The Applicant submits that in view these further subsequent developments, the orders dated 20.09.2019 rendered by the Respondent No.02 (as has been annexed as Exhibit "A-6" to the*

O.A.) and the Order dated 27.05.2019 (as has been annexed as Exhibit "A-5" to the O.A.) rendered by the Respondent No.01, modifying the punishment of stoppage of increment for period of two years to "Reprimand" have become non-est, nullity (null and void) and illegal as the very basis i.e. the conviction of the Applicant, is no more in existence, in view of the order and judgment dated 06.04.2023 rendered by the Hon'ble Additional Sessions Judge, Alibag.

(iii) This very position, although brought by the Applicant to the kind notice of the Respondent No.02 by way of Representation, (kindly see Exhibit "A-9" appended to the O.A.) and requested to treat the "period of suspension w.e.f.7.5.2013 to 17.06.2018 (i.e. 05 years and 40 days) as "duty for all purposes". However, it was not all taken into consideration by the Respondent No.02, on the count that the punishment of "reprimand" rendered by the Respondent No.01 upon the Applicant in Appeal is still there on record and turned down the request of the Applicant, vide order dated 18.08.2023 (appended to the O.A. as Exhibit "A-1 collectively" and the same is under challenge in this O.A.)."

In his representation/application dated 18-4-2023 the Applicant had elaborately set out the chronology and grounds as to why order of treating his period of suspension 'as such' needed to be reconsidered. While passing the order dated 18-8-2023 effect of order dated 6-4-2023 was not at all considered.

6. Under such circumstances order of remand of the matter to the Disciplinary Authority deserves to be passed. The Original Application is allowed in the following terms. Order dated 18-8-2023 is quashed and set aside and the matter is remanded to the Disciplinary Authority to decide application/representation of the Applicant dated 18-4-2023 afresh by considering the

chronology and effect of judgment dated 6-4-2023, within two months from today. The decision arrived at pursuant to this determination shall be communicated to the applicant forthwith.

No order as to costs.

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

Place: Mumbai
Date: 24.04.2025
Dictation taken by: V. S. Mane
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