

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.160 of 2024 (S.B.)**

Santosh S/o Mangru Kumare,
Age:-57 Yrs., Occ-service
R/o, Mangli, Tah-Nagbhid, Dist-Chandrapur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Home ministry Mantralaya, Mumbai-400032.
- 2) The Director General of police,
office at Mumbai.
- 3) Deputy Inspector General of Police,
Gadchiroli Range, Gadchiroli.
- 4) Superintendent of Police, Gadchiroli.

Respondents.

S/Shri B.T. Lade, N.S. Giripunje, Advocates for the applicant.

Shri V.A. Kulkarni, learned P.O. for respondents.

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

Dated :- 22/04/2025.

JUDGMENT

Heard Shri Amol Hunge, learned counsel along with Shri N.S. Giripunje, learned counsel for applicant and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was appointed as Police Naik in Gadchiroli district on 13/01/1991. Respondent no.4, i.e., Superintendent of Police, Gadchiroli has passed order of termination dated 15/04/2010. Respondent no.2, i.e., the Director General of Police, Mumbai confirmed the order of respondent no.4, i.e., Superintendent of Police, Gadchiroli on 01/06/2011. The petitioner has challenged the orders of respondent nos.2 and 4 before this Tribunal by filing O.A.No.255/2012. This Tribunal has partly allowed the O.A. on 25/01/2022. The punishment orders passed by respondent nos.2 and 4 are quashed and set aside. The respondents were directed to consider the evidence on record and pass the order as per guidelines given in the Circular dated 31/10/1991. After the order of this Tribunal, respondent no.4, i.e., Superintendent of Police, Gadchiroli has cancelled the order of termination and reinstated the applicant as per order dated 04/04/2022. The applicant had joined duty on 09/04/2022 as per order dated 04/04/2022. He was posted at Police Head Quarters, Gadchiroli. Respondent no.4 corrected the post of re-joining of petitioner as Naik Police Shipai instead of Police Shipai. The petitioner was not granted any back wages, salary etc. of the dismissal period. Therefore, the applicant has approached to this Tribunal for the following reliefs : -

“(11) A. Allow the instant Application.

B. Be further pleased to declared that the Applicant is continue in the service and therefore entitled for pay and allowances from i.e. 15/04/2010 till 09/04/2022 including other consequential benefits, arrear, leave encashment (including Pay Commission established for the said periods), pay and its fixation and interest thereof if any, as if he continued in service in the absence of criminal case registered and decided against him.

C. Be further pleased to hold and declare that the applicant is entitled for enhanced pension and retirement benefits after calculating above said amount as specified in prayer clause- B,

D. Be further pleased to direct the respondent to release the amount in favour of the Applicant as the period specified in prayer clause- B, during the pendency of the present application,

E. Be further pleased to direct the respondents to forward the claim of applicant to the concerned authorities for commutation of his pension & other retirements benefits in favour of the Applicant during the pendency of the Application.”

3. During the pendency of the application, the applicant came to be retired on attaining the age of superannuation.

4. The O.A. is strongly opposed by respondent no.4. It is submitted that applicant was reinstated, but again the show cause notice was issued on 04/07/2024 to the applicant for the misconduct committed by him. Therefore, applicant is not entitled for relief sought in this O.A. Hence, the O.A. is liable to be dismissed.

5. During the course of submission, the learned counsel for applicant has submitted that the order of reinstatement is very clear. In the order, it is not mentioned as to whether the respondents wanted to

initiate any inquiry against the applicant. The order itself shows that termination order was cancelled and the applicant was reinstated in service. The applicant was posted at Head Quarters, Gadchiroli.

6. The learned P.O. has submitted that the applicant was not retired at that time and therefore show cause notice was issued on 04/07/2024. The applicant came to be retired in the month of November, 2024, therefore, he is not entitled for pension and pensionary benefits.

7. It is pertinent to note that the misconduct for which the applicant was already terminated by the respondents is again sought to be enquired by the respondents as per notice dated 04/07/2024. Once the case is decided against the accused / delinquent, whether it is permissible again re-open the said case. As per the Judgment of this Tribunal, the applicant was reinstated in service by cancelling the termination order. The respondents now proposed to enquire about the misconduct committed by the applicant in the year 2006. In respect of misconduct for which he was terminated by the respondents. The said termination order was already cancelled by the respondents by order dated 04/04/2022. Now again for the same misconduct, the respondents cannot initiate the departmental inquiry, etc. Hence, the defence taken by the respondents is not tenable.

8. The applicant is already reinstated by the respondents as per order dated 04/04/2022 by cancelling the termination order. Therefore, it is the duty of respondents to pay all service benefits by treating earlier termination order dated 15/04/2010 as cancelled. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to pay all the service benefits to the applicant by treating the applicant in service. The pension and other benefits shall be fixed by the respondents, as per rules.
- (iii) No order as to costs.

Dated :- 22/04/2025.

dnk.

(Justice M.G. Giratkar)
Acting Chairman.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Acting Chairman.

Judgment signed on : 22/04/2025.