

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 1543 OF 2009

DISTRICT : PUNE

Shri Sujat Ali Liyakat Ali Inamdar)
R/o: Manchar, Pimpalgaon Road,)
Near Punaj Prestige, Tal-Ambegaon,)
Dist-Pune.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Home Department, Mantralaya)
Mumbai 400 032.)
2. The Director General of Police,)
Maharashtra State,)
Shahid Bhagatsing Marg,)
Mumbai.)
3. The Superintendent of Police,)
Pune Rural, Pune.)...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicant.

Shri K.B Bhise, learned Presenting Officer for the Respondents.

CORAM : Shri Justice A.H Joshi (Chairman)

DATE : 06.02.2018

ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant and Shri K.B Bhise, learned Presenting Officer for the Respondents.

2. This Tribunal had decided O.A no 1543/2009 and dismissed it by recording finding which is contained in para 6 of the judgment, which reads as follows:-

“6. The issue now is whether the applicant’s acquittal was a clean acquittal or based on benefits of doubt. The learned advocate for the applicant took me through the judgment extensively. After discussing the evidence in detail, the learned Judge decided that the prosecution has failed to prove the case beyond all reasonable doubt. He, therefore, mentioned in paragraph no. 23 and 25, that the accused is entitled to be acquitted by giving benefit of doubt. Thus, in my view, the acquittal was not clean, but clearly on the benefit of doubt. As such, Respondent no. 3 was within his right to treat the period “as such”, and not on duty.”

(Quoted from page 4 of Order dated 7.1.2011 in O.A 1543/2009).

3. The case has been remanded by Hon’ble High Court by order dated 21st December, 2017 to hear and decide the O.A afresh on its own merits, and also for affording to the applicant opportunity to represent his case which was denied before the competent authority.

4. By impugned order dated 7.1.2011, the applicant has been denied salary and allowances during the period of suspension.

5. The impugned order discloses a ground that the said denial is based on the conclusion that the applicant has been acquitted by giving benefit of doubt.

6. Perusal of para 25 of the judgment of acquittal rendered in Special Case no. 08/2005 dated 31.7.2008 reveals as follows:-

“25. There is no positive evidence for connecting the accused in the alleged crime. The evidence of PW. 1 to 4 is not found corroborated with each other. The evidence of complainant i.e. PW. 1 does not inspire confidence. The evidence of PW.1 and 3 is also not found corroborated with each other on the point of accepting bribe amount. In short, the prosecution has failed to prove its case beyond all reasonable doubt against the accused. I have already indicated that accused is entitled to be acquitted by giving benefit of doubt.”

(Quoted from page 30 of O.A 1543/2009).

7. Learned Advocate for the applicant has argued that the judgment ought to be considered in its entirety and not by reading certain sentence in isolation.

8. Learned Advocate for the applicant has pointed out certain observation from the judgment:-

- (a) The Special Judge has specifically found that the demand and acceptance of the amount of bribe was not proved.
- (b) The version of complainant is not trustworthy.
- (c) The version of panch witness is not corroborated.
- (d) The only circumstances adverse to the applicant is that traces of anthracene powder was found on the tip of finger of right hand of the accused.

9. The text of para No. 5 quoted in earlier para 6, consists of observations that evidence of the prosecution witness does not corroborate with each other on the point of demand and

acceptance of bribe amount. Learned Special Judge has recorded finding in unambiguous words that the prosecution has failed to prove its case beyond all reasonable doubt against the accused. If all these observations are taken into account, collective effect is that in fact the charge framed against the applicant as accused was not proved. In this background the phraseology employed by the Learned Special Judge in the judgment “acquitted by giving benefit of doubt” is in the nature of cursory and slipshod or an observation recorded owing to habit of particular style than exact fact finding.

10. In the result, it is duly established that it is not a case where any benefits could be denied on the applicant on the ground that his acquittal is based on benefit of doubt.

11. Learned Advocate for the applicant has placed reliance on reported judgment of Hon’ble High Court, Dattatraya V. Kulkarni Vs. Director of Agriculture, Maharashtra & Ors, 1984 Mh.L.J 406, wherein Hon’ble High Court has taken a view that the concept of ‘honourable acquittal or full exoneration’ is strange to criminal jurisprudence, and if prosecution has failed to prove the guilt, irrespective of the language employed in the judgment, it could be a case of clean acquittal.

12. Learned Advocate for the applicant has also shown that in various cases of similar nature, full salary and allowances have been awarded to the delinquents.

13. Though Hon’ble High Court has remanded the case on the ground that applicant was not afforded opportunity to defend against the proposed action, it is now too late in the life of the case, and it would be unjust to ask the applicant to show cause by

once again remanding the case to the competent authority in the background that now the event is fourteen years older.

14. Moreover the Government did not initiate any disciplinary proceedings against the applicant towards conduct subject matter.

15. Hence Original Application succeeds. Impugned order dated 27.8.2009 is quashed and set aside. It is declared that the applicant would be entitled to all consequential benefits by treating the period of suspension as spent on duty for all purposes whatsoever.

16. Learned Advocate for the applicant prays for fixing a time frame for compliance of the order, by issuing necessary direction by the Competent Authority, i.e. Superintendent of Police, Pune Rural, entries in service book, fixation of pay and payment consequent thereupon.

17. Ordinarily, all that is required to be done lies in the accounts and administrative department and are ministerial acts. It is hoped that all actions will be taken in any case within three months from the date of this order.

18. Parties are directed to bear own costs.

Sd/-
(A.H. Joshi, J.)
Chairman

Place : Mumbai
Date : 06.02.2018
Dictation taken by : A.K. Nair.