

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI****ORIGINAL APPLICATION NO.101 OF 2009  
(Subject : Recovery of pay and allowances)**

DISTRICT: MUMBAI

Shri Madhukar Vithoba Shinde, )  
 R/o. Room No.205, Building No.17/13, )  
 Chandivali MHADA Colony, )  
 Sakinaka, Mumbai 72 )

**....Applicant.****Versus**

1. The State of Maharashtra, )  
 Through the Secretary, )  
 Home Department, Mantralaya, Mumbai. )
2. The Commissioner of Police for Greater Mumbai, )  
 Mumbai. )
3. The Special Inspector General of Police (Admn.), )  
 M.S., Mumbai. )

**.....Respondents.**

Shri K.R. Jagdale, the learned Advocate for the Applicant.

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

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

DATE : 22.11.2016.

**J U D G M E N T**

1. Heard Shri K.R. Jagdale, the learned Advocate for the Applicant and Smt. Archana B.K., the learned Presenting Officer for the Respondents.
2. O.A. contains various prayers. Out of those prayers, prayer clause C, D and E have been deleted by Applicant.
3. Only prayer that survives, is prayer (a), which reads as follows :-

*“(a) By suitable orders or directions this Honourable Tribunal be pleased to quash and set aside impugned order dated 14.09.2007 passed by Respondent No.2 whereby the leave of the Applicant was made as leave without pay and further ordered for recovery of Rs.29,666/- from the Applicant’s salary.”*

(Quoted from page 17 of the O.A. paper book)

4. Applicant's case is that the Applicant was unable to attend duties because he was sick and was admitted in St George's Hospital, and despite this, his said period of absence is treated as absence without pay.

5. In relation to his sickness, the applicant has averred at page 14 in paragraph 7.7 as follows :-

"7.7 ..... Further on 13.05.2004 the Applicant was admitted in JJ Hospital on the said ailment. Further on 12.02.2005 the Applicant was admitted at Saint Georges Hospital and he was operated for Appendix."  
(Quoted from page 14 of the O.A. paper book)

6. Apart from the explanation offered by Applicant quoted in foregoing paragraph does not accompany any narration as to alleged sickness between 27.09.2004 to 18.10.2004, which is 1<sup>st</sup> spell of absence without leave and without pay.

7. The absence due to sickness during December 2004 to February 2005 is explained by applicant stating that he was admitted in St George's Hospital. It is common knowledge that St George's Hospital is a Government hospital. The matter of hospitalization in the Government Hospital would be a matter to be proved by documents.

8. Applicant did not plead anything in this regard nor has produced any evidence to the effect that he was admitted in the St George's Hospital. It is not shown / pleaded by Applicant that any evidence in this regard was placed by him before the Respondent.

9. Thus Applicant has failed to prove that impugned order is passed without taking into account reasons or without considering irrefutable evidence produced by him, if any.

10. Therefore, the Original Application does not merit grant of any relief and it is dismissed. No costs.

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

prk

