IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

ORIGINAL APPLICATION NO.625 OF 2016

DISTRICT : SOLAPUR

Mr. Shital Bhausaheb Burange.)
Age : 29 Yrs, Occu. Service,)
R/o. At Post Mahatma Phule Nagar,)
Post : Korti, Tal.: Pandharpur,)
District : Solapur.)**...Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Tribal Development Department,)
Mantralaya, Mumbai - 400 032.)

2. The Additional Commissioner,)
Tribal Division Integrated Tribal)
Development, Tribal Department,)
District : Thane.) **...Respondents**

Mrs. Punam Mahajan, Advocate for Applicant.

Ms. Savita Suryawanshi, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 16.03.2017

JUDGMENT

1. The issue thrown up for determination by this Original Application (OA) is as to whether even if the initial appointment of the Applicant as Shikshan Sevak was contrary to Rules, but still if the Government sat over the issue for six years, whether the equitable principles enshrined in the doctrine of promissory estoppel and legitimate expectation would be attracted or not. I find that they will be attracted in the peculiar facts of this OA and in that connection, it will be necessary to make profuse reference to **M/s. Motilal Padampat Sugar Mills Company Limited Vs. State of Uttar Pradesh and others : AIR 1979 SC 621** and also on a later Judgment of the Hon'ble Supreme Court in **Southern Petrochemical Industries Co. Ltd. Vs. Electricity Inspector & E.T.I.O. : 2007 AIR SCW 3752**.

2. The Applicant is B.A.D.Ed. His father was a Principal of a Government School and it is not disputed that his father was in Group 'B' Non-Gazetted Cadre. He died in harness on 17.7.2005. The Applicant moved for appointment on compassionate ground. He came to be appointed as Clerk-Typist on the compassionate ground by the 2nd Respondent – Additional Commissioner, Tribal

Division, Thane. The 1st Respondent is the State of Maharashtra in Tribal Development Department. The Applicant made several requests for a legal and proper fixation of his pay. It is a matter of some significance that there is no allegation whatsoever about the Applicant having played any sharp practice in securing the job on the compassionate ground. The job earlier given to the Applicant was later on vide Exh. 'C', Page 19 of the Paper Book (PB), dated 1.4.2006 came to be cancelled. On 17.4.2006, however, vide Exh. 'D' (Page 20 of the PB), the Applicant came to be appointed by way of selection (the Marathi word being Nivad) as Shikshan Sevak. The appointment was for an initial period of three years and as per the 5th condition, in case his performance was satisfactory, he would be appointed in the normal pay scale. There are other terms and conditions which are routine and usual and need not be set out herein. His appointment initially was on an honorarium of Rs.1,500/-.

3. The next event of some moment occurred on 30.09.2001/1.10.2010 vide Exh. 'E' (Page 23 of the PB). It was issued by the 2nd Respondent by way of a confidential notice, a copy of which was marked to the Applicant. The crux of the matter therein was that the deceased father of the Applicant held a post falling within Group 'B' Non-

Gazetted, and therefore, the Applicant had no right to be appointed on compassionate ground because those appointments could be made under a particular GR only in case, the deceased Government employee was either under Group 'C' or Group 'D'. Therefore, there was a proposal to terminate the services of the Applicant and he was asked to show cause within 15 days thereagainst in the absence of which, it would be taken that he had nothing to say.

4. On 19.10.2010, the Applicant gave a detailed response (Exh. 'F', Page 24 of the PB in Marathi). He set out the details of the event that had occurred till the time he was appointed on compassionate ground. I have already mentioned above that there was no allegation of any foul-play having been indulged in, by the Applicant in securing that job. Now, in his response, Exh. 'F' at Page 25 of the PB, the following recitals are significant, especially in the context of promissory estoppel and legitimate expectation. That entire Paragraph needs to be reproduced.

> "मी अनुकंपा तत्वावर नोकरी मागते समयी बी. एस्सी ॲग्री या पदवी कोर्सच्या द्वितीय वर्षात शिक्षण घेत होतो, आपण मला अनुकंपा तत्वावर नियुक्ति आदेश दिल्याने सदरचा पदवी कोर्स मी सोडुन शिक्षणसेवक पदाची नियुक्ती स्विकारलेली आहे व त्याच्या सर्व अटी व शर्ती आजमितीस मी पुर्ण केलेल्या आहेत व आपण त्या वेळोवेळी मान्य केलेल्या आहेत. जर मला त्यावेळीच हया गोष्टी समजल्या असत्या तर मी बी.एस्सी ॲग्री पूर्ण करून प्राथ. शिक्षकापेक्षा चांगल्या पदावर गेलो असतो

याचा मला मानसिक त्रास होत आहे. आता आपणांस आपल्या कृतीच्या विरोधात जाऊन माझी सेवा समाप्त करता येणार नाही.

तसेच मी घरचा मोठा मुलगा असल्याने माझ्यावर माझी आई, अविवाहीत बहीण, लहाण भावाचे शिक्षण यांची जबाबदारी असल्याने मी सदर नियुक्ती स्विकारली. माझे स्वत:चे आतडयाचे ऑपरेशन झालेले आहे. आणि आता या कृतीचा मला खुप त्रास होत आहे.

वरील सर्व कारणांचा विचार करून आपण माझी सेवा समाप्ती केलेला प्रस्ताव रद्द करून माझी सेवा नियमित करावी व त्याप्रमाणे मिळणारे सर्व नियमित लाभ मला देण्यात यावे ही नम्रविनंती.

अन्यथा माझा काहीही दोश नसताना माझे शैक्षणिक, आर्थिक, मानसिक असे अपरिमीत नुकसान होईल व असे झाल्यास त्याची सर्वस्वी जबाबदारी आपणावर राहील."

5. Translated freely, what was mentioned by the Applicant therein was that at the time he asked for compassionate appointment, he was reading for B.Sc. Agriculture in 2nd year and in view of the compassionate appointment given by the Respondents, he abandoned that course and accepted the post of Shikshan Sevak. He had complied with the terms and conditions therein which were also accepted by the Respondents. If he had known at that point of time itself about the reason for the proposed termination, he would have gone ahead to complete the course of B.Sc. Agriculture and would have taken a post much better than Shikshan Sevak. He was suffering mental stress on account of the events that had happened, and therefore, the Respondents could not go against their own action and terminate his services. He was the eldest

son of the family and his mother, an unmarried sister and a younger brother were dependent on him because of which, he accepted the appointment in question. He himself underwent intestinal surgery and was facing hardship on account of the said action of the Respondents. In view of the above said reasons, he asked the Respondents to rescind the proposed termination and regularize him. Otherwise, once he was appointed and for no fault on his part, if he were to be terminated, he would suffer educational, financial and mental stress and tension for which, the Respondents shall be fully responsible.

6. I must repeat that the above recitals in the response of the Applicant need to be carefully borne in mind for the discussion on the core issue that is in store regarding promissory estoppel and legitimate expectation.

7. Thereafter, nothing happened and the Applicant continued to be working as he had been before. The Applicant in the meanwhile brought the sister OA bearing No.1008/2015 on 24.11.2015 *inter-alia* seeking the relief of regularization of his services and for arrears of wages w.e.f. 11.6.2009 on which date, he completed three years of uninterrupted and continuous service.

8. It was, thereafter, that as they say, all hell broke down. On 13th/14th June, 2016 which was after the sister OA was brought that the Respondent No.2 issued the order, a copy of which is at Exh. 'A' (Page 15 of the Paper Book (PB)). The documents referred therein are as many as 20. The said order sets out the facts *inter-alia* that the Applicant was given the compassionate appointment. It then mentioned all about the manner in which the Applicant was given the compassionate appointment. The fact was then set out as to how the deceased father of the Applicant held Group 'B' post at the time of his death, and therefore, the Applicant would not be eligible for the benefit of compassionate appointment. The service of the Applicant was liable to be terminated because the service was not in keeping with the Government policy. A notice was given to the Applicant on 1.10.2010 which was replied to on 17.10.2010. His reply was not acceptable in view of the fact of his ineligibility, and therefore, his services were terminated with immediate effect.

9. Quite pertinently, in the reply of the Applicant, he had clearly set out the facts which told in simpler language would mean that but for the Respondents move to give him compassionate appointment, he would not have abandoned his studies in B.Sc. (Agri.) and all other facts

which have been set out hereinabove. It clearly meant, therefore, that the representations of the Respondents were such as to induce the Applicant to substantially alter his position which he eventually did. Quite pertinently, there was not even a word mentioned about this significant aspect of the matter in the order at Exh. 'A'. The Applicant is aggrieved thereby and is up before me by way of this OA seeking the relief of quashing and setting aside of the said Exh.'A' and for direction to the 2nd Respondent to reinstate the Applicant with all consequential benefits.

10. I have perused the record and proceedings and heard Mrs. Punam Mahajan, the learned Advocate for the Applicant and Ms. Savita Suryawanshi, the learned Presenting Officer for the Respondents.

11. The above discussion must have made it quite clear and even if it is a repetition, so be it, that the Applicant substantially altered his position relying upon the representations of the Respondents. Very significantly, from 2010 till 2016, no steps were taken and it was life as usual on the career front of the Applicant. The period of six years during which the Applicant served the Respondents as usual and the Respondents discharged their obligation towards the Applicant points out to the fact

that the Applicant was for all practical purposes lured into believing that he was, regardless of whatever the defect might have been at the time of initial appointment accepted in the employ of the Respondents.

12. The above discussion must have made it quite clear that the present is a matter where the parties hereto are only involved and no third party is going to be affected by the decision either ways. Ms. Suryawanshi, the learned PO, however, repeatedly contended that the initial appointment was not in accordance with the Rules, and therefore, the Applicant has no case. As to this submission of the learned PO, I find that there are other formidable and insurmountable difficulties in the way of the Respondents. However, this Tribunal has to take a comprehensive overall view of the matter rather than by its scope restricted and constricted to the initial defect in the appointment aspect of the matter and with this, I shall immediately turn to **M.P. Sugar Mills** (supra). That was a matter pertaining to a certain Industrial Unit acting upon the representations made and held out by the State in the matter concerning concession in the levy of Sales Tax. The issue therein was as set out in the inaugural Paragraph itself which needs to be quoted.

> "How far and to what extent is the State bound by the doctrine of promissory estoppel ? It is a doctrine of comparatively recent origin but it is potentially so fruitful and pregnant that such vast possibilities for growth that traditional lawyers are alarmed lest it might upset existing doctrines which are looked upon almost reverentially and which have held the field for a long number of years. The law is regard to promissory estoppel is not yet well settled though it has been the subject of considerable debate in England as well as the United States of America and it has also received consideration in some recent decisions in India, and we, therefore, propose to discuss it in some detail with a view to defining its contours and demarcating its parameters. We will first state briefly the facts giving rise to this appeal. This is necessary because it is only where certain fact situations exist that promissory estoppel can be invoked and applied."

13. The above issue that their Lordships addressed in **M.P. Sugar Mills** (supra) would make it very clear that when it comes to considering the issue of promissory estoppel, then the mere fact that in that particular matter and in fact also in **Southern Petrochemical Industries** (supra), the issue was regarding the levy of tax would not be decisive of the matter. Their Lordships have been pleased to hold quite categorically that the doctrine of promissory estoppel can be pressed into service against the Government and the Government will very much be bound by its representations, if they resulted in alteration of the position of a particular party like the present Applicant. In the above referred two Judgments, the party conducted

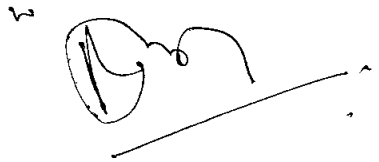
themselves consistently with the actions to be taken spurred by the desire to take benefit of the tax concession by way of establishment of plant, etc. Such a course of action would not be applicable hereto. However, when it comes to the doctrine of promissory estoppel, it will be very clear that it will have to be enforced as a principle of law which is of recent origin and is, therefore, as mentioned in **M.P. Sugar Mills** (supra) also called new estoppel which could be made applicable regardless of the difference in fact situation. The doctrine of promissory estoppel is a class by itself.

14. In Para 6 of **M.P. Sugar Mills** (supra), Their Lordships were pleased to hold that there was no presumption that every person knew the law though it was often said that everyone was presumed to know law but that was not a correct statement. Therefore, regardless of whether this point has been pressed at the stage of pleadings or not, there was a whisper about the Applicant being educated and in a position to understand the Rule position. In my view, this aspect of the matter ought to have been taken as a fact and proved as such about which, there is nothing on record to show. On the other hand, if Exh. 'F' is anything to go by, it would become quite clear that the Applicant without the knowledge of law, set out

realm facts which when reduced into and brought to the legal field would clearly indicate that the ingredients that are necessary for operationalization of the doctrine of promissory estoppel were very consciously taken by him as far back as in 2010 and then for six year, the Government in the manner of speaking, "suffered him without demur" thereby exposing itself to have become the initiator of the doctrine of promissory estoppel.

15. Further, in **M.P. Sugar Mills** (supra), the Hon'ble Supreme Court was pleased to hold that there was no principle of law that mandated that there must be a pre-existing contractual relationship for promissory estoppel to operate. It is an equitable principle and would apply when one party has by his words or conduct made to other a clear and unequivocal promise to create a legal relationship. In this behalf, by applying the principles laid down by the Hon'ble Supreme Court in **M.P. Sugar Mill's** case and applying them here, the conduct of the Government was clearly indicative of something which would give rise to an expectation in the mind-set of the Applicant that while a show cause notice was issued to him, he replied thereto and the subsequent inaction of the Government brought in quite clearly the elements and ingredients of promissory estoppel and at the same time,

exhibited that in him a legitimate expectation was aroused by the conduct of the Respondents to induce him to believe that he would be continued at least in the same capacity and on same terms and conditions, if not anything more. In that connection, I attach great significance to the enormous time lag of six years. That is because, if the Respondents had to get rid of the Applicant anyhow, nothing really happened from 2010 and 2016 so as to provide to the belated action of the Respondents any colour of credibility and it is here, that the principle of equity which **M.P. Sugar Mills** (supra) heavily relied upon would swing into operation. In **M.P. Sugar Mills** (supra), the Hon'ble Apex Court made clear observations to the effect that in fact, the principle underlying promissory estoppel is not so much one of estoppel as it is an equitable doctrine. A number of Anglo-American cases in the field were referred to in **M.P. Sugar Mill's** case. It is very clear that if the party like the Respondents remained in a state of inertia for an enormous period of six years, they may have said by it word of mouth or not but they would reasonably expect to induce the Applicant to believe that the said inaction and forbearance was attributable to a clear intent to continue him in the said employment. The example that Their Lordships have cited in Para 14 of **M.P. Sugar Mills** (supra) on Page 636 of the AIR was that (A) promised, (B) to



pay him an annuity during his lift time, and thereupon (B) resigned from a profitable employment, as (A) expected that he might. He received the annuity for some years and in the meantime became disqualified from again obtaining good employment. That promise was held binding. When this example is applied to the present facts, more particularly to the reply at Exh. 'F' which has been quoted verbatim in Marathi along with its translation in English would make it quite clear that the Applicant can on a very surer foundation invoke the equitable doctrine herein under consideration.

16. It was, thereafter, held quite categorically as I have already mention above in **M.P. Sugar Mills** (supra) that the doctrine of promissory estoppel can very safely be invoked even against the Government.

17. From Para 19 onwards, Their Lordships in **M.P. Sugar Mills** (supra) discussed the Indian Case Law and several Judgments of the Hon'ble Supreme Court came to be considered. It was held that for the said doctrine to operate, it was not necessarily so that the representation of the Government or of one party must lead to the other party acting to its detriment. It was sufficient, if the said 2nd party altered its position relying upon the

representation made and here I must repeat times out of number that in Exh. 'F', the Applicant made it abundantly clear, as to in what manner, he conducted himself and as to how relying upon the said conduct negative though it was by way of inaction lead him to alter his position. Thereafter, on Pages 643 and 644 in **M.P. Sugar Mills** (supra), the principles were elaborately laid down and I think, it will be most appropriate to reproduce a larger passage therefrom.

> "The law may, therefore, now be taken to be settled as a result of this decision, that where the Government makes a promise knowing or intending that it would be acted on by the promisee and, in fact, the promisee, acting in reliance on it, alters his position, the Govt. would be held bound by the promise and the promise would be enforceable against the Govt. at the instance of the promisee, notwithstanding that there is no consideration for the promise and the promise is not recorded in the form of a formal contract as required by Art.299 of the Constitution. It is elementary that in a republic governed by the rule of law, no one, however high or low, is above the law. Every one is subject to the law as fully and completely as any other and the Government is no exception. It is indeed the pride of constitutional democracy and rule of law that the Government stands on the same footing as a private individual so far as the obligation of the law is concerned : the former is equally bound as the later. It is indeed difficult to see on what principle can a Government, committed to the rule of law, claim immunity from the doctrine of promissory estoppel ? Can the Government say that it is under no

obligation to act in a manner that is fair and just or that it is not bound by considerations of "honesty and good faith"? Why should the Government not be held to a high "standard of rectangular rectitude while dealing with its citizens"? There was a time when the doctrine of executive necessity was regarded as sufficient justification for the Government to repudiate even its contractual obligations, but let it be said to the eternal glory of this Court, this doctrine was emphatically negatived in Indo-Afghan Agencies case (AIR 1968 SC 718) and the supremacy of the rule of law was established. It was laid down by this Court that the Government cannot claim to be immune from the applicability of the rule of promissory estoppel and repudiate a promise made by it on the ground that such promise may fetter its future executive action. If the Government does not want its freedom of executive action to be hampered or restricted, the Government need not make a promise knowing or intending that it would be acted on by the promisee and the promisee would alter his position relying upon it. But if the Government makes such a promise and the promisee acts in reliance upon it and alters his position, there is no reason why the Government should not be compelled to make good such promise like any other private individual. The law cannot acquire legitimacy and gain social acceptance unless it accords with the moral values of the society and the constant endeavour of the Courts and the legislatures must, therefore, be to close the gap between law and morality and bring about as near an approximation between the two as possible. The doctrine of promissory estoppel is a significant judicial contribution in that direction. But it is necessary to point out that since the doctrine of promissory estoppel is an equitable doctrine, it must yield when the equity so requires. If it can be shown by the Government that having regard to the facts as they have subsequently transpired, it would be inequitable to hold the Government to the promise

made by it, the Court would not raise an equity in favour of the promisee and enforce the promise against the Government. The doctrine of promissory estoppel would be displaced in such a case because, on the facts, equity would not require that the Government should be held bound by the promise made by it. When the Government is able to show that in view of the facts which have transpired since the making of the promise, public interest would be prejudiced if the Government were required to carry out the promise, the Court would have to balance the public interest in the Government carrying out a promise made to a citizen which has induced the citizen to act upon it and alter his position and the public interest likely to suffer if the promise were required to be carried out by the Government and determine which way the equity lies. It would not be enough for the Government just to say that public interest requires that the Government should not be compelled to carry out the promise or that the public interest would suffer if the Government were required to honour it. The Government cannot, as Shah, J., pointed out in the Indo-Afghan Agencies case, claim to be exempt from the liability to carry out the promise "on some indefinite and undisclosed ground of necessity or expediency", nor can the Government claim to be the sole judge of its liability and repudiate it "on an ex parte appraisement of the circumstances". If the Government wants to resist the liability, it will have to disclose to the Court what are the subsequent events on account of which the Government claims to be exempt from the liability and it would be for the Court to decide whether those events are such as to render it inequitable to enforce the liability against the Government. Mere claim of change of policy would not be sufficient to exonerate the Government from the liability; the Government would have to show what precisely is the changed policy and also its reason and justification so the Court can judge for itself which way the public interest lies and what the equity of

> the case demands. It is only if the Court is satisfied, on proper and adequate material placed by the Government, that overriding public interest requires that the Government should not be held bound by the promise but should be free to act unfettered by it, that the Court would refuse to enforce the promise against the Government. The Court would not act on the mere ipse dixit of the Government, for it is the Court which has to decide and not the Government whether the Government should be held exempt from liability. This is the essence of the rule of law. The burden would be upon the Government to show that the public interest in the Government acting otherwise than in accordance with the promise is so overwhelming that it would be inequitable to hold the Government bound by the promise and the Court would insist on a highly rigorous standard of proof in the discharge of this burden. But even where there is no such overriding public interest, it may still be competent to the Government to resile from the promise "on giving reasonable notice, which need not be a formal notice, giving the promisee a reasonable notice, giving the promisee a reasonable opportunity of resuming his position" provided of course it is possible for the promisee to restore status quo ante. If, however, the promisee cannot resume his position, the promise could become final and irrevocable. Vide Ajayi v. Briscoe (1964) 3 All ER 556."

18. In the discussion in **M.P. Mills** (supra), Their Lordships made it clear that the principles laid down in **Union of India Vs. Indo-Afgan Agencies : AIR 1968 SC 718** were of central importance to the proper understanding of the said equitable principle. On Page 650 of AIR in **M.P. Sugar Mills**, relying upon an English

Judgment, Their Lordships approvingly quoted a passage to mean that, for this doctrine to operate, it must be shown only that the party like the present Applicant acted differently from what he would have otherwise done and it would become very clear that, without being trained in law, the Applicant clearly indicated as to in what way, he had to suffer on account of the inaction and consequent action in that sense, the word, "alteration of the position" would have to be understood.

19. The Judgment in **M.P. Sugar Mills** (supra) was also referred to in **Southern Petrochemicals Industries** (supra) along with several other Judgments. In that matter also, the Hon'ble Supreme Court was pleased to consider the law with regard to the promissory estoppel. In Para 147 of **Southern Petrochemicals Industries** (supra), the following observations were made by Their Lordships on Page 3791 of AIR SCW.

> "**147.** Legitimate expectation is now considered to be a part of principles of natural Justice. If by reason of the existing state of affairs, a party is given to understand that the other party shall not take away the benefit without complying with the principles of natural justice, the said doctrine would be applicable. The legislature, in-disputably, has the power to legislate but where the law itself recognizes existing right and did not

take away the same expressly or by necessary implication, the principles of legitimate expectation of a substantive benefit may be held to be applicable."

20. The discussion in the subsequent Paragraphs in regard to the theory of legitimate expectation laid down the principles which when applied to the present facts, would make it quite clear that there was a very strong case arising out of the conduct of the Respondents to give rise to legitimate expectation in the mind of the Applicant that he would be continued in the same capacity and that was exemplified by inaction on the part of the Respondents to take any action for that long duration of time.

21. The above discussion, in my opinion, must make it quite clear that the sudden action of the Respondents by way of the impugned order is contrary to all elementary principles of the equity which I must repeat forms the basis of the promissory estoppel and in good measure also of the legitimate expectation.

22. By way of an Affidavit-in-rejoinder to the reply filed by the Respondent No.2, the Applicant has given out at least four instances where the Respondents favourably considered the case of the similarly placed Applicant whose ascendants were Group 'B' employees. In my opinion,

however, that aspect of the matter need not be pursued further because the above discussion would make it quite clear that even in the existing scheme of things, such as they are, the Applicant would be entitled to the relief sought.

23. In Review No.8 of 2016 in a group of OAs, the first one being OA 289/2015 (Sandip B. Pawar and others Vs. The State of Maharashtra and others, dated 118.11.2016 (Para 18)) the said principle was in effect adopted by the 2nd Bench of this Tribunal which spoke through the Hon'ble Vice-Chairman and to which, I was also a party.

24. My attention was invited to **District Collector and Chairman Vs. M. Tripura Sundari Devi : 1990 SCC (3) 655** which laid down that the minimum educational qualification advertised was not relaxable. My attention was also invited to **Union of India Vs. Narendra Singh : AIR 2008 SC 240**. Now as to the principles that these two authorities were cited for, it must be remembered that in the present OA, the educational qualification of the Applicant himself presents no issue or problem. The alleged invalidity is by reason of the fact that his father was highly placed in Group 'B' category and if he was

appointed and again, I must repeat, he did nothing wrong about it much less did he indulge in any sharp practice. This is not, therefore, a case where any deviation or dilution was to be made from the requirement of the post and position in question. In **Narendra Singh** (supra), in fact, Their Lordships were pleased to let the party before the Hon'ble Supreme Court to even retire on a promotional post which was not due to be given to him although certain directions with regard to the post retiral benefits were given in that behalf.

25. I am also in agreement with Ms. Savita Suryawanshi, the learned PO that I must remain within the confines of my jurisdiction of judicial review of administrative action and should not make light of the lack of qualification aspect of the matter. Most pertinently, in neither of the Judgments cited by her, the issue of promissory estoppel or legitimate expectation could have been raised. And even by remaining within the jurisdictional limitations, I am in duty bound to follow the law laid down by the Hon'ble Supreme Court.

26. It is a matter of some regret that the Applicant's fate has been hanging in limbo practically for no fault of his. A short Affidavit-in-reply came to be filed to mention

the names of as many as 19 incumbents to the post of the Additional Commissioner from 7.3.2006 till date. It is always open to the concerned authorities to try and fix the responsibility either on them or anyone else, if they found it necessary or expedient, but one thing is quite clear that their action against the Applicant by way of the impugned order cannot be sustained. The Applicant will have to be reinstated to the post he had been terminated from with the same terms and conditions that applied to him then. That would decide this OA 625/2016 and of course, the other OA bearing No.1008 of 2015 will remain pending to be heard in due course.

27. The order herein impugned terminating the services of the Applicant stands hereby quashed and set aside for the reasons hereinabove mentioned. The Respondents are directed to reinstate the Applicant within six weeks from today to the post he had been terminated from on the same terms and conditions that applied to him at that point in time post reinstatement, the Applicant is at liberty to make an appropriate application for back-wages during this period of time to the appropriate authority in which case, the said authority shall decide it appropriately bearing in mind the above enunciated principles within four weeks of the receipt thereof. The Original Application

is accordingly allowed in these terms with no order as to costs.

Sd/-
(R.B. Malik)
Member-J
16.03.2017

Mumbai
Date : 16.03.2017
Dictation taken by :
S.K. Wamanse.
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