

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.959 OF 2016

DISTRICT : MUMBAI

Sitaram S. Panindre.)
Age : 58 Yrs, Occu. Service to Arm Force)
Marol Head Quarters as a Police Sub)
Inspector, Residing at A/103, Himgiri)
Society, Veena Nagar, Phase-II, Mulund (W),)
Mumbai 400 080.)...**Applicant**

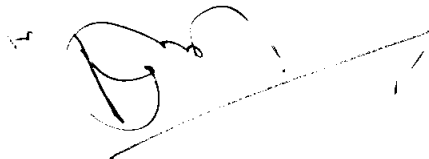
Versus

1. The State of Maharashtra.)
Through the Secretary,)
Home Department,)
Mantralaya, Mumbai - 400 032.)
2. Commissioner of Police, Mumbai)
Crawford Market, Near CST Station,)
Mumbai 400 001.)...**Respondents**

Dr. Gunratan Sadavarte, Advocate for Applicant.

Mrs. A.B. Kololgi, Presenting Officer for Respondents.

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




DATE : 24.04.2017

JUDGMENT

1. This Original Application (OA) is brought by a retired Police Sub Inspector calling into question the appellate order, whereby punishment of stoppage of one annual increment without cumulative effect imposed by the disciplinary authority was confirmed and the order of suspension during 22.3.2011 to 13.10.2014 pending trial vide **Anti Corruption Bureau Special Case No.69/2013 (State of Maharashtra Vs. Sitaram S. Panindre)** was treated as 'spent under suspension'.


2. I have perused the record and proceedings and heard Mr. Gunratan Sadavarte, the learned Advocate for the Applicant and Mrs. A.B. Kololgi, the learned Presenting Officer (PO) for the Respondents.

3. The significant facts are not in dispute. There were allegations that the Applicant committed an offence under the Prevention of Corruption Act, 1988 and the further allegations of trap. He was sent to trial before the learned Special Judge vide the Special Case above detailed. On 30th April, 2014, the learned Judge presiding over that Court was pleased to acquit the Applicant. I have carefully



perused the said Judgment and Para 39 thereof in fact, needs to be reproduced.

“39. The evidence of the complainant for the reasons recorded aforesaid, is not credible and trustworthy. Therefore, on the basis of his sole testimony which has not been supported by any independent witness, the accused cannot be convicted. In view of this, the accused is certainly entitled for an acquittal. The prosecution has totally fails to prove the alleged charges levelled against the accused for the offence u/s.7,13(1)(d) r/w.13(2) of P.C. Act. When the case of prosecution fails on the point of demand and acceptance of bribe amount by the accused, there is no reason for me to discuss the presumption u/s/ 20 of the P.C. Act and the alleged misconduct committed by the present accused while performing while official duty, and obtained pecuniary advantage from the complainant. In view of the aforesaid discussion, I answer the point Nos.2 to 6 in the negative and proceed to pass the following order.”

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4. It is absolutely clear not only from the Paragraph above quoted, but by a reading of the said Judgment that it can by no stretch of imagination be said that it was not an acquittal on merit and that it was a case of the grant of benefit of doubt. It was categorically held that the evidence of the prosecution was not credible and trustworthy and I do not think, anything more was required to hold that the said prosecution failed because no case was made out against the Applicant who was an accused in that matter.

5. It needs to be carefully noted that as per the elementary tenets governing the Criminal Law as well as the Civil Law, the above referred Judgment of the Court of Competent Criminal Jurisdiction could have been challenged only in accordance with the procedure and that for all one knows could have been before the Hon'ble High Court. No appeal was preferred and the consequence thereof was that the order of the learned Special Judge attained finality. It became conclusive and binding on all concerned. As far as these proceedings are concerned, what really happened was that despite the order of clean acquittal above referred to, in a preliminary enquiry, punishment was imposed by the disciplinary authority on the Applicant and that was confirmed in appeal. Proceeding on assumption that a limited reading of the




order of the learned Special Judge could be undertaken to determine as to whether it was a case of clean acquittal or as a result of some benefit of doubt, etc., I would prefer not to be drawn into the academics of the matter. On hard facts, it is quite clear that the order of the learned Special Judge did not give any benefit of doubt to the accused being the Applicant herein. It was a case of failure of the prosecution to bring the guilt home to the accused Applicant, and therefore, read it in any manner and one would quite clearly find that the Judgment and Order of acquittal was what can be described as 'clean acquittal' without any benefit of doubt as such.

6. Let me in this background turn to the impugned order which is the first Exhibit of Exh. 'A' Collectively at Page 33 of the Paper Book (PB). The facts have been stated. The facts at issue arising therein had already been determined by the Court of competent jurisdiction. Thereafter, the stand of the appellant being the present Applicant was noted. Thereafter, the conclusive (निष्कर्ष) was stated in the following words (in Marathi).

“निष्कर्ष :-

सदर प्रकरणी अपिलार्थीची बाजू ऐकून घेण्यात आली तसेच अपिलार्थीने सादर केलेली व इतर उपलब्ध कागदपत्रे तपासण्यात आली. अपिलार्थी यांना प्राथमिक चौकशी अहवालाच्या आधारे शिक्षा देण्यात आलेली आहे. तसेच दि.०६/११/२०१५



रोजी त्यांना प्रत्यक्ष मुलाखतीची संधी देण्यात आलेली आहे. त्यांचा मुददा संयुक्तीक नाही. अपिलार्थी यांच्याविरुद्ध सरकारी पक्ष ठोस पुरावा सादर करू शकला नाही म्हणून तांत्रिक कारणास्तव अपिलार्थीची फौजदारी खटल्यात निर्दोष मुक्तता झालेली आहे. अपिलार्थी हे लाचेची रक्कम स्विकारतांना रंगेहात पकडले गेले होते ही वस्तुस्थिती आहे. सदर प्रकरण अपिलार्थीने अंतस्थ हेतूने हाताळण्याचे दिसून येते. अपिलार्थीने नमुद केलेले बचावाचे मुददे समर्थनीय नसल्याचे माझे मत आहे. यास्तव अपिलार्थी श्री.सिताराम शंकर पाणिंद्रे यांचा अपिल अर्ज फेटाळण्यात येत असून, त्यांना शिस्तभंग प्राधिकारी यांनी दिलेली “आगामी देय वेतनवाढ १ वर्ष रोखणे (पुढील वेतनवाढीवर परिणाम न होता) तसेच त्यांचा दि.२२/०३/११ ते दि. १३/१०/२०१४ हा निलंबन कालावधी जशाचा तसा (निलंबन काळ म्हणून) गणण्यात यावा” ही शिक्षा अपिलात कायम करण्याचा निर्णय अपिलीय प्राधिकारी तथा मा.राज्यमंत्री गृह (शहरे) यांनी दिला आहे.

सदर अपील प्रकरणी अपिलीय प्राधिकारी तथा मा. राज्यमंत्री गृह (शहरे) यांनी दिलेल्या निर्णयावर संबंधितांनी आवश्यक ती कार्यवाही करावी.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.”

7. It must have become clear from the above quote that the maker of the impugned order opined that the Applicant was found red-handed which was a fact and the prosecution failed because no evidence could be laid before the learned Special Judge. I am at a complete loss to understand as to on what basis, the conclusions could be drawn in the impugned order such as they are. Assuming without holding that such conclusions could be drawn, how I wish the maker of the impugned order had shown awareness that for all practical purposes, his attempt was to scrutinize the Judgment of a competent Court of



Criminal Jurisdiction, and therefore, there ought to have been cogent reasons stated rather than self-drawn, self-serving conclusions. I am unable to uphold the impugned order.

8. Further, the learned PO Mrs. A.B. Kololgi pointed out from the order of the learned Special Judge, all about the laying of trap, etc. from Page 6 of the order of the Special Judge. That quite clearly is a mere statement of facts of the case of the prosecution and not the finding of the Court. I must repeat that the perusal of the entire Judgment of the learned Special Judge would make it quite clear that it was a case of complete failure of the prosecution and it is not open to dilute that aspect of the matter by anyone including this judicial forum.

9. Several instances have been quoted by and on behalf of the Applicant to highlight the fact as to how principles of natural justice were violated. When the case is so cocksure as it is, I do not think, it is necessary to examine that aspect of the matter in great details. I must repeat that the impugned order is such as it cries for being interfered with, and I am afraid, I must readily oblige.

A handwritten signature in black ink, appearing to be 'G.M.', is written above a horizontal line.

10. The order herein impugned stands hereby quashed and set aside. The Applicant is exonerated from whatever enquiry was held against him. The Respondents are directed to restore to him the annual increment which has been stopped for one year. The necessary consequential financial benefits, if any, be also given to the Applicant. The period of suspension shall be treated as 'period spent on duty'. The Original Application is allowed in these terms with no order as to costs. Compliance within four weeks.

Sd/-

(R.B. Malik)
Member-J
24.04.2017

24.04.17

Mumbai

Date : 24.04.2017

Dictation taken by :

S.K. Wamanse.

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