

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NOS.105 to 107 OF 2016

DISTRICT : MUMBAI

ORIGINAL APPLICATION NO.105 OF 2016

Shri Ramdas Krishna Potle.)
Aged : Adult, Occu.: Govt. Service as)
Supervisor, General Stamps Office,)
Old Customs House, Fort, Mumbai 23.)
Address of Service of Notice :)
1/26, Spring Mill Chawl, G.D. Ambedkar)
Marg, Naigaon, Mumbai 400 016.)...**Applicant**

Versus

1. The Superintendent of Stamps.)
Nagar Bhavan, Fort, Mumbai - 23.)
2. Additional Controller of Stamps,)
Mumbai and having Office at Old)
Customs House, Fort, Mumbai - 23.)
3. Inspector General of Registration &)
Stamps Controller, MS, Pune.)...**Respondents**



WITH

ORIGINAL APPLICATION NO.106 OF 2016

Shri Subhash Kashinath Patil.)
 Aged : Adult, Occu.: Govt. Service as)
 Supervisor, General Stamps Office,)
 Old Customs House, Fort, Mumbai 23.)
Address of Service of Notice :)
 Kashinath Patil House, Ekser,)
 Talaphakadi Road, Borivali (W),)
 Mumbai - 400 092.)...**Applicant**

Versus

1. The Superintendent of Stamps & 2 Ors.)...**Respondents**

AND

ORIGINAL APPLICATION NO.107 OF 2016

Shri Hemant D. Sawant.)
 Aged : Adult, Occu.: Govt. Service as)
 Supervisor, General Stamps Office,)
 Old Customs House, Fort, Mumbai 23.)
Address of Service of Notice :)
 1/26, Spring Mill Chawl, G.D. Ambedkar)
 Marg, Naigaum, Mumbai 400 014.)...**Applicant**



Versus

1. The Superintendent of Stamps & 2 Ors.)...**Respondents**

Mr. M.D. Giri with Mr. , Advocate for Applicants.

Mrs. K.S. Gaikwad, Presenting Officer for Respondents.

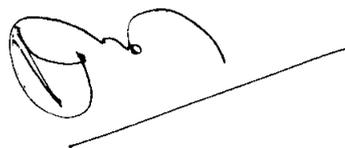
P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 03.02.2017

JUDGMENT

1. These three Original Applications (OAs) made by the Supervisors in General Stamps Office are based on identical facts and can, therefore, be disposed of by this common Judgment.

2. The Applicants have faced departmental enquiry, suspension, etc. and this is not the first litigation in this Tribunal as far as they are concerned. They now seek the promotion to the post of Deputy Collector of Stamps with appropriate deemed date and directions to regularize the suspension period as duty period with all consequential benefits.



3. I have perused the record and proceedings and heard Mr. M.D. Giri, the learned Advocate for the Applicants and Mrs. K.S. Gaikwad, the learned Presenting Officer (PO) for the Respondents.

4. The facts, facts at issue and the necessary determination are such that it may not be necessary to set out the individual details of each one of the Applicants. It would be suffice to mention that the Applicants were at the time crucial hereto, came to be suspended on the allegations of misconduct pertaining to the spurious stamps. That was in the year 2003. It is an indisputable factual position that the Applicants were subjected to a Departmental Enquiry (DE) in which they were exonerated. The disciplinary authority ordered some kind of a re-enquiry and on the 2nd occasion as well, they were exonerated. They and others brought before this Tribunal a fasciculus of OAs bearing Nos.509/2006 brought by the Applicant who is the Applicant in this group in OA 107/2016, OA 536/2006 was brought by the Applicant who is the Applicant in OA 106/2016 in this particular group and OA 537/2006 was brought by the Applicant of OA 105/2016 in this group. There were other Applicants also in that group of OAs. The said OAs came to be decided on 15th January, 2007 by the then Hon'ble



Chairman of this Tribunal. The operative part of that 22 page Judgment of this Tribunal was Para 25 which may as well be reproduced.

“The Original Applications are allowed in terms of prayer clause 9(a). Orders of suspension passed by Superintendent of Stamps, Mumbai against the applicants accordingly set aside. The respondents are directed to reinstate the applicants on or before 31.1.2007 with liberty to the disciplinary authority, if so advised, to take appropriate action in respect of the report submitted by the enquiry officer in accordance with law. On reinstatement of the applicants the applicants be posted to any other post/place than that of Supervisor of Stamps, Mumbai. The regularization of suspension allowance shall be undertaken only after they are acquitted or exonerated from the criminal case or departmental enquiry, which is ordered by the disciplinary authority. The enquiry so directed to be completed as expeditiously as possible.”

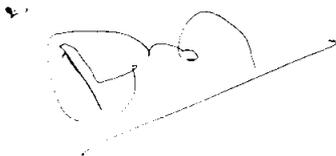
(emphasis supplied)

It is very clear therefrom that the directions were that the regularization of the Suspension Allowance would be made only after the Applicants were acquitted or exonerated whatever the case may be. For the DE, there was direction

A handwritten signature in black ink, consisting of a stylized 'M' and 'B' followed by a long horizontal line extending to the right.

of expeditious disposal while for the prosecution, there could not have been any such direction by this Tribunal. It is an admitted position that the Applicants have been exonerated in the disciplinary enquiry. As far as the prosecutions are concerned, they are more than one. As far as the Applicants in OA 105/2016 and 106/2016 are concerned, they have been discharged in all but one criminal cases while the Applicant in OA 107/2016 has not been discharged so far but his matter is pending before the Court of Sessions here in Mumbai. The Hon'ble High Court in Writ Petition No.2723/2009 and other Criminal Writ Petition was pleased to make the following observation in Paras 2 and 3.

“2. Upon perusal of the charge-sheet, the learned Addl. Public Prosecutor has not been in a position to point out a single witness who attributes any act directly or indirectly to the present petitioners. In so far as the allegations that the petitioners have failed to perform their duties is concerned, the same may be relevant in so far as departmental proceedings are concerned. However, in so far as criminal proceedings are concerned, unless there is some material to implicate the petitioners for the



offence charged with, continuation of the criminal proceedings is nothing else but an abuse of the process of law.

3. In that view of the matter, Rule in both the petitions. Interim relief in terms of the amended prayer clause (bi).”

The observations of His Lordship make it clear that there may not be any substance in the allegations of the Applicant. However, the matter is still pending before the Hon'ble High Court and the order impugned therein whereby the discharge application came to be dismissed by the learned Magistrate and which order was confirmed by the Court of Sessions remain stayed. The point, however, remains that the criminal prosecution is still pending, and therefore, going by the earlier order of the then Hon'ble Chairman of this Tribunal, the issue of regularization of the period of suspension has to await till such time as the prosecution gets concluded. The learned PO Mrs. Gaikwad told me that in the meanwhile, the promotions have been made. Be it as it may, but to my mind, the final determination of the issue has necessarily to await the conclusion of the criminal trial. These Original Applications can, therefore, not be straightaway allowed



and reserving the rights of the Applicants open to make a move considered proper in the circumstances after the conclusion of the criminal trial, these Original Applications are disposed of with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
03.02.2017

03.02.17

Mumbai

Date : 03.02.2017

Dictation taken by :

S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2017\2 February, 2017\O.As 105 to 107.16.w.2.2017.Suspension Period.doc