

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI****(Delivered BENCH AT AURANGABAD 017.)****ORIGINAL APPLICATION NO. 856 OF 2016****DISTRICT: LATUR**

Shri Govind Baliram Gurav,  
 Age: 61 years, Occu. : Retired  
 Asst. Sub Inspector,  
 Resi./o : Nāth Nagar,  
 Near Kripa Sadan English School,  
 Latur, Dist. Latur.

**.. APPLICANT****VERSUS**

- 1) The State of Maharashtra,  
 Through its Secretary,  
 Home Department,  
 Mantralaya, Mumbai.
- 2) Director General of Police,  
 Maharashtra State, Mumbai,  
 Latur, Dist. Latur.
- \* 3) Superintendent of Police, Latur, Dist. Latur.
- 4) 3) The Accountant General (A&E) II,  
 Maharashtra State, Nagpur.

\* Corrected as  
 per order dt. 3/3/17  
 in speaking to the  
 Minutes moved in  
 O.A. No. 856/16, by  
 Hon'ble Member  
 (J).

PWS  
 Registrar  
 3/3/17.

(Copy to be served upon the Presenting Officer, Maharashtra  
 Administrative Tribunal, Bombay, Bench at Aurangabad)

**.. RESPONDENTS**

APPEARANCE / : Shri Vinod D. Godbharle, learned Advocate for  
 The Applicant.  
 : Shri D.R. Patil, learned Presenting Officer for  
 the Respondents.

**CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

Vin

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

**(Delivered on this 27<sup>th</sup> day of January, 2017.)**

1. Heard Shri Vinod D. Godbharle, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. The applicant Shri Govind Baliram Gurav, joined the services of Police Department as Police Constable in Maharashtra State Reserve Police Force- Gate No. 4 at Pune. In the year 1981, he was transferred to Osmanabad district and has undergone training in Reserve Police Training School, Jalna in the year 1982. He was promoted as Police Head Constable on 11.10.1989 and thereafter, as Assistant Sub Inspector on 26.12.2002.

2. During the service period of the applicant, the applicant was kept under suspension on 27.01.2005, since the applicant filed number of representations such as 19.05.2013, CR No. 6/2005 was registered against him. The said suspension was revoked on 30.03.2005. He was acquitted in the said crime in RCC No. 160/2006 by Judgment and Order passed by the J.M.F.C. AUSA, Tq. AUSA, Dist. Latur on 1.9.2014.

3. The applicant was again kept under suspension on 19.12.2005, since CR No. 16/2006 was registered against him.

He came to be acquitted in the said crime vide Sessions Case No. 62/2006 on 7.2.2009.

4. On 31.10.2006, the applicant lodged one complaint against Reserved PSI with Anti-Corruption Bureau & crime was registered on his complain as CR No. 3064/2006 under the Prevention of Corruption Act on 7.12.2006. On 3.5.2007, the applicant came to be dismissed by the respondent no. 3 by invoking powers under Art. 311(2)(b) of the Constitution of India.

5. The applicant has filed O.A. No. 113/2007 and challenged the order of his dismissal. This dismissal was stayed and it was finally quashed vide order dated 26.02.2007 by the Tribunal. The applicant came to be retired on superannuation on 13.05.2013. Initially the applicant received provisional pension. In RCC No. 160/2006, the applicant came to be acquitted. The applicant filed number of representations such as 19.06.2013, 21.08.2014, 8.10.2014 and 15.06.2015 but regular pension was not sanctioned.

6. On 5.8.2015, the applicant received one show cause notice from respondent no. 3 and he was called upon to explain as to why the suspension period from 20.12.2005 to 2.7.2006 shall not be treated as suspension. The applicant replied to the

*[Handwritten signature]*

said notice but vide order dated 25.01.2016 this period was treated as suspension period. The applicant was therefore, constrained to file this Original Application.

7. On 19.01.2017, the learned Advocate for the applicant submits that the applicant is not pressing prayer clause 'C' and that he will file separate proceeding in respect of prayer clause 'C' and seeks relief as per prayer clauses 'B' and 'D' only.

8. In this Original Application, the applicant has claimed following reliefs:-

**"10 (B) Direct the respondents to pay all the pensionary benefits to the applicant along with interest within stipulated period.**

**(D) Direct the respondents to take decision on the suspension period and dismissal period of the applicant i.e. 1) suspension period from 27.01.2005 to 30.03.2005 total 63 days, 2) dismissal period from 05.02.2007 to 12.03.2007 total 36 days within stipulated period."**

9. The respondent Nos. 1 to 3 have resisted the claim of the applicant by filing affidavit in reply. It is stated that even

though the applicant has been acquitted by the J.M.F.C. Ausa, Tq. Ausa, Dist. Latur in RCC No. 160/06, the respondents have taken decision to file appeal against the order of acquittal of the applicant. Earlier it was communicated to the applicant that due to pendency of the Criminal Appeal No. 157/2014 before the learned Session Court, Latur, the pensionary benefits cannot be granted to the applicant till the decision of the Criminal Appeal. The respondents tried to justify the order of treating suspension period as suspension only.

10. From perusal of the facts as discussed, it will be thus crystal clear that though, earlier the applicant was suspended on two occasions and his suspension was revoked still Criminal Case was pending against him. The applicant has been acquitted in RCC No. 160/2006 by the J.M.F.C. Ausa, Tq. Ausa, Dist. Latur. Merely because the respondents wants to prefer an appeal against the order of acquittal, the respondents cannot be allowed to withhold the pensionary benefits to the applicant.

11. It is stated that the applicant was under suspension due to pendency of the Criminal Appeal and therefore, he was dismissed. The applicant was earlier under suspension from 27.01.2005 to 30.03.2005 due to pendency of Criminal Appeal

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No. 157/2014 arising out of C.R. No. 6/2005 and thereafter, because of his dismissal from 5.2.2007 to 12.03.2007. Admittedly, the applicant's dismissal has been set aside and therefore, it was incumbent upon the respondents to regularize the suspension period, since the applicant has been acquitted on merits in Criminal case. Merely because the respondents wants to file appeal against the acquittal of the applicant, it cannot be a ground for further withholding pension and pensionary benefits of the applicant. It seems that the applicant has filed number of representations, as already stated, and instead of passing order on his representation, the respondents have issued a show cause notice on 5.8.2015 and called upon the applicant to explain as to why his suspension from 20.12.2005 to 2.7.2006 shall not be treated as suspension period. The applicant has submitted his explanation on 25.01.2016, but it seems that his explanation has not been treated with a proper perspective and finally impugned order has been passed on 25.01.2016 i.e. after the retirement of the applicant. It is material to note that the applicant has retired long back in the year 2013 and therefore, such disciplinary action after his retirement should not have been taken. The impugned order dated 25.1.2016 (Exhibit-U at paper book page no. 106). The said order, thus, seems to be passed without application of mind, when the Hon'ble J.M.F.C. Ausa, Tq. Ausa, Dist. Latur has



already acquitted the applicant, there was no justification on the part of S.P. Latur to treat the applicant's suspension period as suspension.

12. Vide letter dated 1.2.2016, which is at paper book page no. 99-A, it has been communicated to the applicant that his claim for pay fixation and regular pension will be considered only after decision of the appeal pending before the Session Court is not legal. If at all, the applicant is convicted in the Criminal Appeal No. 157/2014, the respondent authority will be at liberty to take whatever legal action, which can take as per the provisions of the Service Rule thereafter and for that purpose there is no necessity to withhold the applicant's pension and pensionary benefits. In view of the discussions in foregoing paragraphs, I pass following order:-

**ORDER**

1. The Original Application is partly allowed.
2. The respondents are directed to pay all consequential benefits to the applicant.
3. The respondents are also further directed to take decision on the suspension period and dismissal period of the applicant as prayed in prayer clause No. 10(D).



4. The said decision shall be taken within three months from the date of this order and shall be communicated to the applicant in writing.

There shall be no order as to costs. \_\_\_\_\_

**(J.D. KULKARNI)**  
**MEMBER (J)**

**KPB/S.B. O.A. No. 856 OF 2016 JDK 2017 Pensionary benefits**





**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 856/2016  
[Shri Govind Baliram Gurav Vs. The State of Mah. & Ors.]  
(Speaking to minutes)**

**CORAM : Hon'ble Shri B.P. Patil, Member (J)**

**DATE : 03.03.2017.**

**ORAL ORDER:**

Heard Shri V.D. Godbharle, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. The applicant has filed application for speaking to minutes for correction of title clause of the judgment in O.A. No. 856/2016 decided by the Hon'ble Shri J.D. Kulkarni, Member (J) who is not presently available at Aurangabad.

3. Perused the judgment delivered by the Single Bench of this Tribunal consisting of Hon'ble J.D. Kulkarni, Member (J) in present O.A. No. 856/2016 on 27.01.2017, wherein the applicant has claimed relief against four respondents. But in the judgment the name of respondent no. 3 i.e. Superintendent of Police, Latur, Dist. Latur remained to be added in the array of title clause of the said judgment dated 27.01.2017. The said mistake has been occurred in advertently and it is a typographical and clerical mistake. Therefore, it requires to be cured by correcting the

//2// O.A. No. 856/2016

title cause of the said judgment. Accordingly the title cause of the judgment be corrected by adding name of respondent no. 3 i.e. Superintendent of Police, Latur Dist. Latur.

4. The Registrar is directed to correct the title of the judgment dated 27.01.2017 accordingly by adding respondent no. 3 i.e. Superintendent of Police, Latur, Dist. Latur in it.

ORAL ORDERS 3.3.2017-KPB(SB)BPP

**MEMBER (J)**