

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 882 OF 2013

1. The State of Maharashtra through
Secretary, Home Department,
Mantralaya, Mumbai – 32.
2. The Superintendent of Police,
Nanded.
3. The Director General of Police,
Mumbai.
4. The Special Inspector General of Police,
Nanded.

... Petitioners
(Ori. Respondents)

VERSUS

Narayan Ganpat Kadam,
Age major, Occu. Service,
Police Hawaldar,
Police Head Quarters,
Nanded.

... Respondent
(Ori. Applicant)

.....
AGP for Petitioners : Mr. K.G.Patil
Advocate for respondent sole : Mr. S.S.Panale
.....

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 12th JUNE, 2015

ORAL JUDGMENT (PER S. V. GANGAPURWALA, J):-

1. Mr. Patil, the learned AGP submits that the petitioner was suspended on account of conviction inflicted upon him in Sessions Case under Section 498-A and 306 of IPC. In Appeal, on technical ground the present respondent has been acquitted. The learned

AGP submits that the Police Inspector, Nanded, exercising his powers, had refused to treat the suspension period as duty period and treated the suspension period as suspension only. As such, has not awarded salary for the suspension period. No illegality is committed by the Police Inspector, Nanded. Rule 70(4) of the Maharashtra Civil Services (Joining Time, Foreign Service and Payment During Suspension, Dismissal and Removal) Rules, 1981 have been rightly followed. The Tribunal committed an error in allowing the Original Application filed by the present respondent as the acquittal is not clear acquittal. The Tribunal ought not to have set aside the order passed by the Police Inspector.

2. The learned counsel for the respondent supports the judgment of the Tribunal.

3. We have considered the judgment delivered by the Tribunal, the order passed by the Police Inspector, Nanded and the judgement delivered in the Criminal Appeal No. 61 of 2002 dated 19.10.2007. The present respondent was prosecuted for offence punishable under Section 498-A and 306 of the Indian Penal Code. Initially, he was convicted by the Sessions Court. In appeal filed by him, this Court acquitted the petitioner. The acquittal is a clear acquittal and the same is also not based on benefit of doubt. This Court had

considered the circumstances. The Court also considered that the present respondent had tried to extinguish fire by pouring water and by piece of cloth. The respondent himself has sustained 19% burn injuries and also took the deceased to the hospital and clear acquittal was awarded to the present respondent. Police Inspector, while passing the original order, had considered that as the acquittal is based on technical grounds, the suspension period is not treated as a duty period. It does not appear that the authority has applied his mind in its proper perspective. The Tribunal has considered the judgment delivered by the Court in the Criminal Appeal and thereafter, has exercised his discretion in a probable manner.

4. In the light of the above, no case for interference is made out. The Writ Petition as dismissed. Rule discharged. No order as to costs.

Sd/-

(V. K. JADHAV, J.)

sd/-

(S. V. GANGAPURWALA, J.)

aaa/-