IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3336 OF 2014

Shri Gopinath Haribhau Desai ... Petitioner

V/s.

The Commissioner of Sales Tax ... Respondents

Mr. Amit D. Sale for the petitioners.

Mr. P.P. Kakade, AGP for the State.

CORAM : ***NARESH H. PATIL AND***
A.S. GADKARI, JJ.

7th January, 2015.

P.C.

The petitioner is a peon working in the Sales Tax Department. His conduct was enquired in the departmental enquiry which was initiated on 19th November, 1997. The petitioner was found guilty in the enquiry. Therefore, by an order dated 10th March, 2000 the Additional Commissioner of Sales Tax, Pune range, Pune dismissed the services of the petitioner with effect from 10.2.1999.

2. The respondent's case is that while working as a peon in the Sales Tax

Office, Sangli he accepted bribe of Rs.1200/- from one Mr. N.S. Bite for issuance of "No Dues Certificate". A criminal case was filed against petitioner before the JMFC, Sangli. By a judgment and order dated 23/8/2010 the trial Court acquitted the petitioner from the charges. The petitioner thereafter filed departmental appeal on 29th February, 2012 after near about 12 years from his dismissal from service. The appeal came to be dismissed on the ground of delay. The Learned Counsel appearing for the petitioner submits that petitioner waited for outcome of criminal case and after the judgment in the criminal case was pronounced acquitting the petitioner, within 30 days he filed departmental appeal. This aspect ought to have been considered by the appellate authority and the Tribunal.

3. Learned AGP has supported the order passed by the Tribunal.

4. We have perused the record, the order passed by the departmental authority and the Tribunal.

5. We do not find any convincing reason for the petitioner for not filing departmental appeal in time. There was no reason for him to wait for outcome of criminal case. The charge in the department enquiry is that petitioner accepted bribe of Rs. 1200/- whereas the charge framed against the petitioner under the

criminal case was relating to misusing of office stamp of the superior officer.

6. We do not find any error in the impugned order. In this view of the matter, no interference is warranted in exercise of our extraordinary writ jurisdiction. Writ Petition is dismissed.

(A.S. GADKARI, J.) **(NARESH H. PATIL, J.)**

L.S. Panjwani, P.S.