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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.1376/2015

Nandlal Gangaram Patil.

...Petitioner..

Versus

The State of Maharashtra & another.

...Respondents...

.....

Shri A.S. Deshmukh, Advocate for petitioner.

Smt.P.V. Diggikar, AGP for respondent nos.1 & 2.

.....

**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 08.12.2016

ORDER :

1] The petitioner was appointed as a Police Constable in the Home Department on or about 1.9.2010. In July, 2012, the petitioner was selected and appointed as a Canal Inspector with Irrigation Department of the State Government. The petitioner tendered his resignation on 19.7.2012. Subsequently, he came to be terminated in the said department and thereafter applied to the Police Department for taking him back in service. The said request is rejected. Aggrieved thereby, the petitioner

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filed Original Application before the Maharashtra Administrative Tribunal. The said original application is dismissed. The said judgment is assailed in the present petition.

2] Mr.Deshmukh, learned counsel for the petitioner, submits that the petitioner would be entitled to the benefit of Rule 46(2) of the Maharashtra Civil Services (Pension) Rules. According to the learned counsel, the petitioner in fact sought to be relieved from his service so as to join another Government service. However, the word "resignation" was a misnomer. The learned counsel submits that the respondents ought to have taken the petitioner back in service.

3] Learned AGP submits that the petitioner is not entitled to be taken back in service. Rule 46 (1) of the Maharashtra Civil Services (Pension) Rules read with Rule 46(5) of the said Rules would apply. The petitioner had also filed an application in contravention with the Government resolution dated 30.12.1991.

4] We have considered the submissions canvassed by the learned counsel for the parties.

5] It is not disputed that the petitioner did not

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become permanent and was not holding any lien on the post of Constable with the Home Department. He had not completed even two years of his service with the Home Department as a Police Constable and before that only he had tendered his resignation. In the letter dated 19.7.2012 in the subject, the petitioner had mentioned that his resignation be accepted so also in the contents of the letter written by the petitioner to the authority, it is stated that his resignation from the Police Department should be accepted. The letter read in its entirety states that the petitioner intended to tender resignation and had tendered his resignation.

6] Even otherwise, the petitioner was never confirmed in service. He does not have a right of lien. As such, the case of the present petitioner cannot be considered from any pedestal. The Tribunal had not committed any error in that regard.

7] In the light of the above, writ petition is dismissed. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)