

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.6200 OF 2016

Subhash s/o Laxmanrao Padibhar

Petitioner

Versus

The State of Maharashtra & another

Respondents

Mr.G.T.Patil, advocate holding for Mr.R.V.Gore, advocate for the petitioner.

Mr.S.B.Joshi, A.G.P. for Respondents.

**CORAM : R.M.BORDE &
SANGITRAO S. PATIL, JJ.
DATE : 15th November, 2016**

PER COURT:

1 The petitioner is objecting to the order dated 23.03.2016, passed by the Maharashtra Administrative Tribunal, dismissing Original Application No.98 of 2016.

2 The petitioner was appointed as a Special Assistant Public Prosecutor by virtue of the order issued by the Collector on 16.05.2000. The post had fallen vacant on account of resignation tendered by one Mr.Laxman Wakade on 02.05.2000. On perusal of the appointment order, it transpires that the appointment is for temporary duration and not a regular one within contemplation of Section 25 of the Code of Criminal Procedure.

3 The petitioner has been appointed as Assistant Special Public Prosecutor under Section 25(3) of the Code of Criminal Procedure. The category of Special Assistant Public Prosecutor is

not within contemplation of Section 25 of the Code of 1973. Apart from this aspect, sub-section (3) of Section 25 provides that where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case. The petitioner has not been appointed for conducting any particular case. The petitioner does not have any legal right to claim continuation beyond the age of 58 years. The decision taken by the Maharashtra Administrative Tribunal appears to be legal and correct and does not call for interference in exercise of extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. Petition is devoid of substance.

4 Writ Petition stands dismissed.

SANGITRAO S. PATIL
JUDGE

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R.M.BORDE
JUDGE