

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

WRIT PETITION NO. 11684 OF 2015

Sushilabai Mohanrao Doke .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri R. P. Adgaonkar, Advocate for the Petitioner.

Ms. S. S. Raut, A.G.P. for the Respondent No. 1.

Shri U. B. Bondar, Advocate for Respondent Nos. 2 and 3.

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

DATE : 13TH DECEMBER, 2016.

PER COURT :

. Mr. Adgaonkar, the learned counsel for the petitioner submits that, the petitioner was terminated in the year 2005 on false and frivolous charges. Criminal case was also filed against the petitioner. The petitioner is acquitted in the criminal case. The petitioner moved the authorities for reinstating the petitioner, however, the authorities have not acceded to the request of the petitioner. The learned counsel submits that, only because criminal case was filed, the petitioner was terminated from the service. No departmental enquiry was at any time conducted. The criminal case having been dismissed against the petitioner, the charges are proved to be false and frivolous. The

necessary consequence would be reinstatement of the petitioner. According to the learned counsel the petitioner still would be in a position to offer her work. The age of superannuation is 65 years. The said aspect needs to be considered. The learned counsel further submits that, the dismissal of the case before the Labour Court would not have any effect on the right of the petitioner. The said proceedings were filed against an order of termination in the year 1992. The petitioner in the year 1997 was reinstated and this termination is independent in the year 2005. The present termination is only on the ground that criminal case is filed against the petitioner. As petitioner is acquitted, the petitioner deserves to be reinstated.

2. Mr. Bondar, the learned counsel for respondent Nos. 2 and 3 submits that, independent of the criminal case the action has been taken by respondents. The petitioner was issued with show cause notice to improve her work. Reply was not found to be satisfactory and thereafter the order is passed terminating the service of the petitioner. The petitioner was not in service since 2005 onwards. The post on which the petitioner was working is already filled in. The said post is on honorarium. The petitioner has no right to the said post. As per the procedure laid down under Government Resolution the respondents have acted.

3. It appears that, since 2005 the petitioner is not in service.

Criminal case was filed by the State against the petitioner for the offence punishable U/Sec. 409 of the Indian Penal Code. The Court has acquitted the present petitioner on 15.04.2013.

4. It would be seen that, the appointment of the petitioner is pursuant to the Government Resolution on a honorarium. The procedure is laid down under the Government Resolution dated April 12, 2007 regarding the action to be taken against an erring Anganwadi Sevika. The said procedure has been adhered to. The petitioner is now 62 years of age. The post is also not vacant.

5. Considering the fact that procedure has been adhered to by the respondents before taking action, it would not be possible to come to the aid of the petitioner in the present writ petition. The writ petition is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]