

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.346 OF 2015
IN
CRIMINAL WRIT PETITION NO.2323 OF 2014

Balasaheb Ramchandra Ghanparkar ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mrs.Rupali Manik Shinde, Adv. Appointed for the Applicant
Mrs.A.S. Pai, APP, for Respondent State

**CORAM: SMT. V.K. TAHILRAMANI &
MRS.MRIDULA BHATKAR, JJ.**

DATE: JULY 12, 2016

P.C.:

1. Heard both sides.
2. The case of the petitioner is that earlier, he was appointed as a night watchman. However, he was removed from the said post. The prayer of the petitioner is that he be appointed as a night watchman.
3. The learned APP pointed out that the petitioner was granted parole on 3.11.2005 for a period of 30 days. The petitioner had to surrender on 3.12.2005. However, the petitioner did not surrender on that date and he absconded. Ultimately, the police had to trace him, arrest him and bring him back to the prison. There was an overstay on the part of the petitioner of 1866 days. On account of the fact that the overstay was for more than

6 months, the petitioner was permanently removed from the remission system. Chapter XL of the Maharashtra Prison Manual deals with the convict officers. Rule 2 of the said Chapter states that there shall be two grades of convict officers:

- (i) Convict Overseers
- (ii) Convict Night Watchman.

Rule 3 which states the eligibility for appointment as convict officers states as under:

“Rule 3(i). Subject to the provisions of sub-rule (ii) and Rule 4 and 5 and sub-rule (ii) of Rule 7, no prisoner shall be appointed as a convict officer unless

(a) he has been granted remission.”

4. As stated earlier, the petitioner has been permanently removed from the remission system. In this view of the matter, rule 3 of Chapter XL, the petitioner cannot be appointed as a night watchman. Thus, we find no merit in the application. Application is rejected.

5. Office to communicate this order to the petitioner who is in Kolhapur Central Prison.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)