

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2677 OF 2015**

Shri. M. Ramesh Kumar, IAS (Retd.) .. Petitioner.
vs.
Chief Secretary
State of Maharashtra and ors. .. Respondents.

Mr. R.R. Shetty for the petitioner.
Mr. J.S. Saluja, AGP for the respondent-State.

**CORAM: D.H. WAGHELA, C.J. AND
M.S.SONAK, J.
DATE : 17 MARCH 2016**

P.C.:

1] By this petition under Articles 226 and 227 of the Constitution of India, the petitioner has applied for following reliefs:

“(a) this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ or direction to the State Government granting the Petitioner the salaries and allowances in the post of Member (Administrative) of the MAT from 8/5/2011 being the date on which he should have ordinarily been appointed until 2/7/2013 being the date on which the appointment was finally effect, and quash the letters dated 26/8/2014(Exhibi-K) and letter dated 7/1/2015(Exhibit-O) to this Petition;

(b) This Hon'ble Court be further pleased to direct the Respondents to pay 18 per cent interest to the Petitioner on the amounts due to him being salaries, allowances and other emoluments in the post of Member (Administrative) of the MAT.

(c) This Hon'ble Court be pleased to issue an appropriate writ to the State Government to grant a compensation of Rs.1 crore for the mental trauma, harassment and sullyng reputation of the Petitioner by indulging in illegal acts and civil torts;

(d) such other and further orders may be passed by this Hon'ble Court as may be deemed fit in the facts and circumstances of the case;

(e) costs of this Petition be provided for.”

2] The facts in brief, on the basis of which, the petitioner seeks aforesaid reliefs are as follows. By advertisement dated 20 November 2010, applications were invited for the post of Member (Administrative) of the Maharashtra Administrative Tribunal (MAT). Amongst several other applications, the petitioner applied for and the Selection Committee in its meeting dated 25 January 2011, resolved to recommend the petitioner for appointment to the said post. However, later on, the Selection Committee, in its meeting dated 13 June 2011 recalled its earlier recommendation and the State Government, thereupon issued fresh advertisement dated 28 June 2011, inviting applications for the posts of Member (Administrative) MAT.

3] At the aforesaid stage, the petitioner instituted Writ Petition No. 1031 of 2011 challenging the resolution of the Selection Committee made in its meeting dated 13 June 2011 and the action of the State Government, in not accepting the recommendation for appointment of the petitioner to the post of

Member (Administrative) MAT. The said writ petition was disposed of by this Court vide its judgment and order dated 9/12 September 2011. The operative portion contained in paragraph 26, reads thus:

26. In these premises, this petition succeeds and the same is hereby allowed. The impugned communication dated 9/5/2011 addressed by the Principal Secretary to the State Government as well as the Resolution dated 13/6/2011 of the Selection Committee and to the extent it pertains to recall of the unanimous recommendations made for selection to the post of Member (Administrative), are hereby quashed and set aside.

We direct the State Government to process the Selection Committee's recommendation dated 25/1/2011 for the post of Member (Administrative) for further action as required under the Rules. As the post of Member (Administrative) has fallen vacant on 8/5/2011, it is expedient that the Selection Committee's recommendations are forwarded by the State Government, after consideration, to the Central Government expeditiously.

4] The petitioner, has not placed on record the memo of Writ Petition No. 1031 of 2011, in order to enable us to ascertain precise nature of reliefs applied for by the petitioner in the said writ petition. Nevertheless, it is quite clear that this Court, only directed the State Government to process the Selection Committee's recommendation dated 25 January 2011 and after consideration thereof, to forward the same to Central Government expeditiously. There were no directions issued either to appoint the petitioner or in any case, to appoint the petitioner from any particular date. There were also, no directions issued in the matter of award of any consequential benefits to the petitioner.

5] Ultimately, on 2 July 2013, the petitioner was appointed as a Member (Administrative), MAT by the Central Government. In this petition, the petitioner claims that vacancy to the post of Member (Administrative), MAT had arisen on 8 May 2011. He contends that but for the actions of the Selection Committee and the State Government, which were ultimately found to be untenable by this Court, the petitioner ought to have appointed as Member (Administrative), MAT with effect from 8 May 2011. On this basis, the petitioner seeks for salary and allowances for the period between 8 May 2011 and 2 July 2013 apart from compensation of Rs.1 crore for mental trauma and civil torts, which he says has been caused by the respondents to him.

6] In this petition under Articles 226 and 227 of the Constitution of India, we find ourselves unable to grant the petitioner any reliefs. In the first place, the petitioner, never had any rights as such to appointment, but merely he had a right to be considered for appointment. Even after, the Selection Committee had placed the petitioner on the select list, the matter was required to be considered by the State Government and thereafter, forwarded to the Central Government. Thereafter, it was for the Central Government to take a decision in the matter of appointment to the post of Member (Administrative), MAT. Even the placement of a candidate upon the select list, does not confer upon such candidate any indefeasible right to appointment. The petitioner, in pursuance of directions issued by this Court to the State Government to process recommendation of the Selection

Committee made in its meeting dated 25 January 2011, has ultimately been appointed as a Member (Administrative) by the Central Government on 2 July 2013. This Court, had made no orders with regard to grant of any deemed date or award of any consequential benefits to the petitioner. There is no record of the petitioner having accepted his appointment on 2 July 2013 under protest or without prejudice. In these circumstances, in the exercise of extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India, we are unable to grant the petitioner reliefs as claimed for by him.

7] As noted earlier, there was no clarity as to the precise nature of reliefs applied for by the petitioner in Writ Petition No. 1031 of 2011. Assuming that the petitioner had applied for any consequential reliefs, it is obvious that the same were not granted to the petitioner. At this stage, therefore, it is not possible to grant the petitioner such reliefs.

8] For the aforesaid reasons, this petition is dismissed. There shall, however, be no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)