

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3069/2016

(SAHADEO DHARAMDAS DONGRE **VERSUS** THE STATE OF MAHARASHTRA)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri A.R. Ingole, counsel for the petitioner.
 Ms N.P. Mehta, A.G.P. for the respondents.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JULY 05, 2016.

By this writ petition, the petitioner challenges the judgment of the Maharashtra Administrative Tribunal, dated 13.03.2015 dismissing the original application filed by the petitioner and rejecting the prayer of the petitioner for grant of pay and allowances for the period during which the petitioner was out of employment.

The petitioner was appointed as a Talathi and in 1999, he was served with a charge-sheet that comprised of four charges. A departmental enquiry was conducted against the petitioner and it was held that two of the charges levelled against the petitioner were proved. The petitioner was dismissed from service by the disciplinary authority by the order dated 18.01.2001. The petitioner filed a departmental appeal against the said order before the Collector. The Collector partly allowed the departmental appeal and set aside the order of dismissal and substituted the same with an order of bringing him to the lowest stage in the pay-scale applicable to the post of Talathi. It was held that the period of suspension should be treated as such. Since no specific order was passed in regard to the entitlement of the petitioner for the monetary benefits for the period during which he was out of service, on an application

made by the petitioner for a review of the order, the Reviewing Authority, by the order dated 17.05.2010 held that the period during which the petitioner was out of service should be treated as suspension period and the petitioner would not be entitled to pay, allowances or any other monetary benefits for the said period. Being aggrieved by the order of the Reviewing Authority dated 17.05.2010, the petitioner approached the Tribunal in the original application. The Tribunal on an appreciation of the material on record, by the order dated 13.05.2015, partly allowed the original application and directed that the period from 22.07.2001 to 21.10.2008 during which the petitioner was out of employment should be added to his qualifying service only for the purpose of pension and other retiral benefits. It was held by the Tribunal that since the petitioner had not worked during the said period and two charges were proved against the petitioner, the petitioner would not be entitled to salary and other allowances for the period during which he was out of service.

On hearing the learned counsel for the parties and on a reading of the impugned order, we find that there is no scope for interference with the same, in exercise of the writ jurisdiction. Not only were the charges levelled against the petitioner serious but, the petitioner was also suspended on two earlier occasions. Taking a lenient view in the matter, the Tribunal held that the Appellate Reviewing authority ought to have considered the period during which the petitioner was out of service as qualifying service for the purpose of granting the retiral benefits to the petitioner. The Tribunal rightly held that since the petitioner had not worked during the said period and since his pay-scale was brought down to the lowest level, he was not entitled to the monetary benefits of pay and allowances for the period during which he was out of service. We do not find

any error in the order of the Tribunal in holding so. The submission made on behalf of the petitioner that the Appellate Reviewing Authority has not passed any order whatsoever in respect of the entitlement of the petitioner to the salary and other allowances for the period during which he was out of service is not a factually correct statement and is not well founded. We find on a perusal of the order of the Appellate Reviewing Authority, specially the order dated 17.05.2010 that the authority has clearly decided the issue in regard to the entitlement of the petitioner to salary and other allowances for the relevant period, against the petitioner. In the circumstances of the case, the order of the Tribunal cannot be faulted with.

Since the order of the Tribunal is just and proper, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

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