

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3306 OF 2016

Shailendra s/o Dinkar Gosavi

-vs-

The State of Maharashtra, thr. its Secretary, Deptt. of Finance and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.O.Ahmed, counsel for the petitioner.
Ms N.P. Mehta, AGP for the respondents.

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

DATE : 17.06.2016.

By this writ petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, Nagpur, dated 13/04/2016 dismissing the original application filed by the petitioner. By the impugned order, the Tribunal held that the respondents had not committed any illegality in reverting the petitioner to the post of Accounts Officer Group-B.

The petitioner was appointed by the respondents as an Accounts Officer Group-B in the year 2004. The petitioner was temporarily promoted to the post of Accounts Officer Group-A (Junior) by the order dated 09/08/2012 along with ten other officers. The order of promotion of the petitioner clearly recorded that the promotion of the petitioner was temporary and for a period of eleven months and/or till a candidate recommended by the Maharashtra Public Service Commission was appointed by nomination. The Departmental Promotion Committee did not recommend the name of the petitioner for promotion, as a criminal prosecution was launched against the petitioner in respect of serious offences punishable under the Penal Code pertaining to financial bunglings and misappropriation and a departmental enquiry was also initiated against him. Since the petitioner was reverted to the post of Accounts Officer Group-B after

the other promotions were effected, the petitioner challenged the said order before the Maharashtra Administrative Tribunal. The Maharashtra Administrative Tribunal by the impugned order, dated 13/04/2016, dismissed the original application filed by the petitioner.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that there is no scope for interference with the impugned order, in exercise of the writ jurisdiction. The petitioner was not regularly promoted to the post of Accounts Officer Group-A (Junior) by the order, dated 09/08/2012 along with the other promotees that were promoted temporarily and the promotion of the petitioner was only for a period of eleven months and/or till a regularly selected candidate was nominated by the State Government on the recommendations of the Maharashtra Public Service Commission. The Departmental Promotion Committee was constituted and the said Committee did not find the petitioner to be fit for regular promotion, as a criminal prosecution was pending against the petitioner and a departmental enquiry was also in progress, against him. Since the promotion of the petitioner was not regularly made in the year 2012 and he was temporarily promoted as a stop gap arrangement and since he was not found to be fit, by the Departmental Promotion Committee, the petitioner was rightly reverted to the post of Accounts Officer Group-B. The Tribunal rightly held that the action of the respondents could not be faulted with, as when the petitioner was considered for promotion, a departmental enquiry and criminal prosecution were pending against him. A lame attempt was made in this Court by the learned counsel for the petitioner to challenge the impugned order on the ground that a charge-sheet was neither served on the petitioner in the departmental enquiry, nor is a charge-sheet filed in the criminal proceedings. The factual statement is however, found to be incorrect and false. A copy of the charge-sheet that is served in the departmental enquiry is annexed to the instant petition. It is rightly submitted on behalf of the respondents by the learned Assistant Government Pleader that the petitioner has replied to the charge-sheet in the departmental proceedings and the proceedings are

in progress. Also, it is stated that a charge-sheet, that is sought to be filed in the criminal proceedings is forwarded to the Principal Secretary for sanction. The charges levelled against the petitioner in the departmental enquiry are grave and serious. In this background, the reliance placed by the learned counsel for the petitioner on the judgments, reported in AIR 1991 SC 2010 (Union of India v. K. V. Jankiraman) and 2014 (1) Mh.L.J. 881 (Narendra Barde v. Municipal Corporation of Brihan Mumbai and others) is ill founded. Also, the petitioner cannot effectively canvass that the petitioner could not be reverted, as the petitioner was temporarily promoted only for a period of eleven months as a stop gap arrangement and/or till the regular candidate selected by the Maharashtra Public Service Commission was appointed on the post by nomination. Since the petitioner was not found to be fit for promotion by the Departmental Promotion Committee, there is no reason to interfere with the impugned order.

Since the order of the Tribunal is just and proper, we dismiss the writ petition with costs.

JUDGE

JUDGE