

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

WRIT PETITION NO. 6089 OF 2016

Mr. Vijay s/o Vishnu Dixit

-vs-

The State of Maharashtra, Department of Home, thr.its Secretary 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. G.D.Asole, counsel for the petitioner.
Mrs.H.N.Prabhu, AGP for the respondent Nos.1 to 6.

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

DATE : 29.11.2016.

By this writ petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, Nagpur Bench, Nagpur dated 21/11/2014 partly dismissing the claim of the petitioner for full back wages for the suspension period.

The petitioner was working as a Police Sub-Inspector when he was prosecuted for an offence punishable under section 307 of the Penal Code. The petitioner was put behind the bars for 28 days and the order of suspension was passed against the petitioner. The petitioner remained under suspension for the period from 02/12/2006 to 31/07/2010. The respondents treated the suspension period as suspension period and hence, the petitioner filed original application challenging the said order and seeking the entire pay and other benefits for the suspension period. The tribunal partly allowed the original application filed by the petitioner and held that the petitioner was entitled to full back wages from 04/02/2010 to 31/07/2010. The tribunal held that the petitioner was not entitled for pay and allowances for the rest of the period of suspension. While holding so, the tribunal relied on the provisions of rule 72 of the Maharashtra Civil

Services (Joining Time, Foreign Service and Payments During Suspension, Dismissal and Removal) Rules, 1981. The order of the tribunal, that partly dismisses the claim of the petitioner is challenged by the petitioner in the instant petition.

On a reading of the impugned order and on a perusal of rule 72 of the Rules, it appears that the tribunal was justified in partly rejecting the claim of the petitioner. As per rule 72(3), the authority, competent to order reinstatement, has jurisdiction to hold that the employee be paid full pay and allowances for the suspension period if it is of the opinion that the suspension was wholly unjustified. In the instant case, the respondents did not find that the suspension was wholly unjustified and, therefore, held that the petitioner was not entitled to the pay and allowances for the suspension period. The tribunal held that the suspension of the petitioner after 04/02/2010 was not proper and, therefore, he was entitled to the pay and allowances for the period of suspension, after 04/02/2010. The tribunal, however, rightly found on a reading of rule 72 of the Rules that since the suspension was not wholly unjustified, the order of the authority holding that the period of suspension should be treated as suspension period was not bad-in-law. The tribunal observed that the offence registered against the petitioner was of a serious nature and the petitioner was behind the bars for 28 days. In this background, the tribunal held that it cannot be said that the suspension of the petitioner was wholly unjustified in the circumstances of the case. The order of the tribunal is in consonance with the provisions of the Rules of 1981 and cannot be lightly interfered with, in exercise of the writ jurisdiction.

Since the order of the tribunal is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE