

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2514 OF 2017

Shivraj s/o Vaijanath Kangale **Petitioner**

V E R S U S

The State of Maharashtra and four **Respondents**
others

Mr. Sandeep C. Swami, Advocate for the petitioner
Mr. A.V. Deshmukh, A.G.P. for the respondents/State

CORAM : S.V.GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.

DATE : 13th APRIL, 2017

PER COURT :

Heard.

2. The petitioner had filed Original Application before the Maharashtra Administrative Tribunal (for short, "**Tribunal**") challenging the order passed by the Disciplinary Authority thereby compulsorily retiring the petitioner from service. The Original Application is partly allowed.

3. The present Writ Petition is filed to the extent of non-grant of relief to the petitioner. Learned counsel for the petitioner submits that the charges framed against the petitioner in Departmental proceedings were not proved. Thereafter, the petitioner was acquitted. The Disciplinary Authority did not agree with the enquiry report and also did not follow the proper procedure. Even the Tribunal came to the conclusion that the punishment imposed on the petitioner was harsh. There was no reason not to reinstate the petitioner and to continue his services till the age of his superannuation. The petitioner was not at fault. It is also submitted that the petitioner is entitled for the wages up to the year 1999.

4. The learned A.G.P. submits that the Charge No.1 was partly proved, and as such, the order passed by the Tribunal is justified. In view of that, no error has been committed by the Tribunal.

5. We have gone through the Judgment of the

Tribunal. The punishment was imposed on the petitioner thereby compulsorily retiring him from service w.e.f. 1st December, 1989. The Tribunal in the Original Application found that the Disciplinary Authority did not follow the procedure because of which much prejudice is caused to the petitioner. The Tribunal also came to the conclusion that the punishment of compulsory retirement awarded to the petitioner is harsh. The Tribunal, in a way, did not award any other punishment also. The Tribunal held that the services of the petitioner would be counted till 30th November, 1989 and his services up to the date of his superannuation will not be counted for the purpose of pensionary benefits. However, once the order of compulsory retirement is set aside by the Tribunal, the petitioner in normal course would be deemed to be continued in service till the date of his superannuation i.e. 30th November, 1999.

6. The wages are not awarded to the petitioner till the date of his superannuation. We feel that the same is justified and same would be appropriate

punishment. So also, the Tribunal has not granted the interest on the gratuity amount. We would not interfere with the said order also.

7. In the light of above, the impugned order of the Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad is modified only to the extent that the services of the petitioner shall be counted till the date of his superannuation which is 30th November, 1999. The petitioner shall not be entitled for any arrears of salary or interest on gratuity till that date. The services of the petitioner shall however be counted as qualifying service for the purpose of pensionary benefits till the date on which he would have attained the age of superannuation.

8. With the above directions, Writ Petition is partly allowed. No costs.

(SANGITRAO S. PATIL, J.)

(S.V. GANGAPURWALA, J.)

