

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2743 OF 2017

Mohd. Imran Ali Mujahid Ali,
Age : 24 years, Occ. Nil,
R/o Police Head Quarter, Nanded
Tq. Dist. Nanded. .. Petitioner

VS.

1. The State of Maharashtra.
2. The Superintendent of Police, Nanded
Dist. Nanded.
3. The Special Inspector General of Police,
Nanded, Range- Nanded Dist.Nanded.
4. The Director General of Police
Maharashtra State, Mumbai. .. Respondents

Mr. P. B. Rakhunde, Advocate for the petitioner
Mr. S. P. Sonpawale, A.G.P. for the respondents/State

**CORAM : R. M. BORDE &
SMT. VIBHA KANKANWADI. JJ.**
DATE : 26-09-2017

PER COURT :

1. The petitioner is objecting to the orders passed by the Maharashtra Administrative Tribunal, Aurangabad rejecting the original application tendered by him, questioning the order of

discharge issued by appointing authority.

2. The petitioner was appointed as police constable purely on temporary basis by an order dated 25/ 26-09-2017. He has undergone the requisite training. As a result of registration of crime against him, the appointing authority proceeded to issue an order directing his discharge on 13-03-2009. Since the order contained the reference to the registration of crime, the Maharashtra Administrative Tribunal, Aurangabad, while disposing of the original application tendered by the petitioner, quashed the said order and granted liberty to the appointing authority to issue the appropriate order without recording any stigma. The appointing authority availing liberty granted by the Maharashtra Tribunal, issued an order on 12-09-2009 discharging the petitioner. The petitioner challenged the said order of discharge by presenting an Original Application bearing No. 327 of 2012, which came to be dismissed by the Tribunal, by an order dated 21st October, 2016.

3. The petitioner contends that, he being employee of the police department, in view of the provisions contained in Maharashtra Police Rules, 1999, the appointing authority erred in passing order of discharge without holding an enquiry. Reliance is placed by the

petitioner on Rule 78 (iii) (vii) and (viii) of Maharashtra Police Rules, 1999. Since the appointing authority has merely issued an order of discharge, the enquiry as in case of a permanent employee (confirmed employee) is not contemplated. In the case of petitioner even otherwise Rule 78 (viii) does not apply and as such failure to hold departmental enquiry would not vitiate the order.

4. It shall be noted that, the petitioner was temporary employee and the appointing authorities while issuing order of discharge has refrained from attaching any stigma on the petitioner. The impugned order is not stigmatic. The appointing authority is empowered to discharge the temporary employee from employment.

5. We do not find any irregularity or illegality in the order passed by the Tribunal rejecting the original application tendered by the petitioner. The writ petition is devoid of merits, hence stands rejected.

[SMT. VIBHA KANKANWADI]
JUDGE

[R. M. BORDE]
JUDGE

vjg/-.