

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4253 OF 2016

Abhimanyu Laxman Kumbhar .. Petitioner

Versus

The Regional Executive Director - 3
and Competent Authority Nagpur
and another .. Respondents

Shri Syed Azizoddin R., Advocate for the Petitioner.
Shri A. S. Bajaj, Advocate for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
S. M. GAVHANE, JJ.
DATE : 06TH OCTOBER, 2017.**

FINAL ORDER :

. Mr. Syed, the learned counsel for the petitioner submits that, the petitioner has been given a clear acquittal in the criminal case filed against him. The petitioner was terminated from service without conducting any departmental enquiry and by resorting to summary enquiry under Regulation 90 of the Service Regulations. The Regulation 90 providing summary enquiry is struck down by this Court. The petitioner has also filed an appeal. The appeal be directed to be considered on merits. Mr. Syed the learned counsel further submits that, the petitioner would not claim backwages till acquittal.

2. Mr. Bajaj, the learned counsel for respondents submits that, the appeal is decided by the Managing Director and no further appeal is provided against the order of Managing Director. According to the learned counsel, the matters which are closed, cannot be reopened subsequently. The learned counsel submits that, even for second appeal limitation period is only thirty days and the appellate authority cannot condone the delay beyond sixty days. Said appeal is filed after a long delay of three to four years.

3. We have considered the submissions canvassed by the learned counsel for respective parties.

4. It appears that, the Regulation No. 106 of the Service Regulations 2005 governing parties also provides for remedy to the petitioner. The petitioner may file appropriate application/representation under Regulation No. 106 of the Service Regulations to the appropriate authority. If the said application/representation is filed within a period of four (04) weeks from today, then the respondent authority shall consider the said application on its own merits without considering the ground of delay. Needless to state the authority would consider all the relevant aspects including acquittal of the petitioner. It is for the authority to pass appropriate order. The authority shall decide the said application/representation filed by the petitioner on its own merits, in accordance with law, expeditiously and

preferably within a period of three (03) months from today. The writ petition according is disposed of with aforesaid observations and directions. Rule discharged. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Oct. 17