

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

WRIT PETITION NO.12340 OF 2016

Ganesh s/o. Sitaram Koli,
Age : 50 years, Occ. Service,
r/o. Salgara, Divdi,
Tq. Tuljapur, Osmanabad ..Petitioner

Vs.

The State of Maharashtra,
Through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai
and ors. ..Respondents

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Mr.D.A.Mane, Advocate for petitioner

Mr.V.S.Basarkar, AGP for respondent nos.1 to 3

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**CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.
DATE : APRIL 03, 2017**

ORAL JUDGMENT (Per S.V.Gangapurwala, J.) :

Rule, made returnable forthwith. With
consent of the learned Counsel for the parties,
heard finally.

2. The petitioner had filed an Original
Application before the Maharashtra Administrative

Tribunal challenging the order of termination issued to him. The Tribunal allowed the said proceedings and granted reinstatement, but did not grant back wages and continuity in service.

3. The learned Counsel for the petitioner submits there was no reason for the Tribunal not to grant continuity in service and the petitioner is entitled for back wages also. The Tribunal has not granted back wages on the ground that no such prayer was made in the Original Application filed by the petitioner.

4. The learned AGP submits that the petitioner did not pray for continuity in service and payment of back wages and therefore, the Tribunal has not committed any illegality. He submits that the Tribunal has taken a liberal view.

5. We have gone through the impugned judgment passed by the Tribunal. The Tribunal has

observed that the respondents failed to prove the charges leveled against the petitioner and the order of dismissal is disproportionate. It appears that the petitioner was absent from the duty for some period. The Tribunal has declared the period of absence of the petitioner as unauthorised absence and maintained the suspension period as suspension period.

6. Though it appears that prayer has not been made by the petitioner seeking reinstatement and continuity in service, the petitioner had prayed for setting aside the order of termination. The prayer for reinstatement would be implicit in the said prayer. However, the Tribunal has found that the punishment imposed upon the petitioner is disproportionate and denial of back wages would be a sufficient punishment.

7. Considering the above, we pass the following order :-

(i) The impugned judgment and order passed by the Maharashtra Administrative Tribunal, to the extent of setting aside the order of termination so also Clause 3 of the operative part of the order, is maintained.

(ii) However, the petitioner shall be granted continuity in service with all consequential benefits. The petitioner shall not be entitled for back wages.

8. Rule is partly made absolute accordingly.

9. The Writ Petition stands disposed of. No costs.

[SANGITRAO S. PATIL, J.] [S.V. GANGAPURWALA, J.]