

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7353 OF 2017

Shri Kusha Gangaram Sarang
Age: 65 Years, Occ: Retired,
R/o. C/o. Vijay Gangaram Sarang,
Jayganga Swapna Nagari,
Balawadi Kulgaon (W),
Tal: Ambernath,
Dist: Thane

.....Petitioner

Versus

1 The Government of Maharashtra
Through Additional Chief
Secretary, Home Department,
Mantralaya, Mumbai-400 032.

2 Director General of Police,
Maharashtra State, Old Council
Hall, Colaba, Mumbai

3 Commissioner of Police,
Thane, District: Thane.

4 Superintendent of Police,
Thane, District: Thane

.....Respondents

Mr. Abhijit S. Deshmukh, Advocate for Petitioner.
Mr. Vishal Thadani, AGP for Respondent-State.

**CORAM : SMT. V.K. TAHILRAMANI, &
SANDEEP K. SHINDE, JJ.**

DATE : AUGUST 4, 2017.

ORAL JUDGMENT: [Per Smt. V.K.Tahilramani, J.]

Rule. Rule made returnable forthwith. With consent of the learned counsel for the parties, the matter is taken up for final hearing immediately.

2 Heard the learned counsel for the petitioner and the learned AGP for the State.

3 This petition has been preferred against the order of the Maharashtra Administrative Tribunal (In short '**Tribunal**') dated 20.1.2017 passed in the Original Application No.409 of 2016 preferred by the petitioner. By the said order, the Tribunal dismissed the said Original Application wherein the petitioner had prayed that period from "27.12.1978 to 6.7.1989" be treated as period spent on duty with consequential service benefits.

4 The petitioner was appointed as Police Constable (P.C.) in the year 1970. FIR came to be lodged against him under Section 161 of IPC and Section 5(d) of

the Prevention of Corruption Act, 1981. Hence, the petitioner was proceeded against departmentally and after completion of disciplinary enquiry, he was removed from service on 27.12.1978. The petitioner preferred appeal against the said order which came to be dismissed. Thereafter, by some kind of a mercy order, he came to be reappointed on 6.7.1989. It is specifically mentioned in the order of reappointment that EX-P.C., i.e., the petitioner was being appointed afresh on the given pay-scale. The Marathi words used were “नव्याने नेमणूक” that is fresh appointment. On this fresh appointment, the petitioner continued to serve and retired on superannuation on 31.1.2009 as P.C.

5 The petitioner started making request for treating his earlier period, i.e., period from 1978 to 1989 to be treated as period spent on duty. In this regard, he made written representation on 21.8.1999, which was expressly rejected by the Government by its communication dated 1.6.2000. Thereafter, post-retirement, the petitioner preferred another representation, which was rejected in the

year 2015. As it was rejected, the petitioner approached the Tribunal. The Tribunal dismissed Original Application No.409 of 2016 preferred by the petitioner observing that the O.A. is barred by limitation. Moreover, there was no prayer moved for condonation of delay.

6 The fate of the petitioner was sealed in the year 2000 itself when his representation was rejected by the Government on 1.6.2000 and the Original Application was preferred in the year 2016. In this view of the matter, the Original Application No.409 of 2016 was clearly barred by limitation. Moreover, it is noticed that the petitioner was removed from service pursuant to disciplinary proceedings and his second appointment was only mercy appointment; that too it was fresh appointment. The Tribunal took all these facts into consideration and thereafter, dismissed the Original Application. Looking to the above facts, no case is made out for interference.

7 Rule is discharged.

(SANDEEP K. SHINDE, J) (SMT. V.K. TAHILRAMANI, J)